

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

JAMES L. ROBINSON,)	
#121865,)	
)	
Petitioner,)	
)	
v.)	CASE NO.
)	1:06-CV-1061-MHT
)	
JAMES DELOACH, WARDEN)	
<i>et al.</i> ,)	
)	
Respondents.)	

**ANSWER
and
MOTION TO DISMISS PETITION
CHALLENGING MULTIPLE CONVICTIONS
IN A SINGLE PETITION**

Come now the Respondents by and through the Attorney General of the State of Alabama and in response to the petition for writ of habeas corpus make the following answer and motion to dismiss Robinson's petition for writ of habeas corpus.

1. Robinson is currently incarcerated in the Alabama state prison system at Draper Correctional Facility. In his petition currently before this Court, Robinson challenges his May 4, 1999, guilty-plea convictions in the Houston County, Alabama Circuit Court for possession of a forged instrument in the second degree

and breaking and entering an automobile.¹ Robinson further challenges his May 4, 1999, sentences of twenty-five years' imprisonment for each conviction, with the sentences to run concurrently with the sentences imposed in each of the other cases.

2. Respondents assert that Robinson's claim that his right to equal protection was violated is procedurally barred.

3. Respondents assert that Robinson's claim that his guilty plea was unlawfully induced and not knowingly entered is procedurally barred.²

4. Respondents deny that Robinson is innocent.

5. Respondents deny that any of Robinson's federal constitutional rights have been violated by the State of Alabama incident to his conviction and sentence in this case.

¹ On the same day, May 4, 1999, Robinson entered guilty pleas to five different cases in the Houston County Circuit Court: CC-1998-1222 (possession of a forged instrument in the second degree), CC-1998-1486 (breaking and entering an automobile), CC-1998-1626 (forgery in the second degree), CC-1998-1627 (forgery in the second degree), and CC-1998-1628 (breaking and entering an automobile). (See Exhibit A) Robinson only enumerates cases numbered CC-1998-1222 and CC-1998-1628 in his petition before this Court. (Robinson's petition, pg. 1)

² Robinson did not enumerate this issue in his petition; however, in his "Procedural History And Facts Of Case", he argued that he entered into the plea agreement based upon his understanding that he would be sentenced to twenty-five years, split, with ten years to serve. Out of an abundance of caution, this writer will address this issue herein, as well as the equal protection argument that Robinson enumerated in his petition.

6. Respondents assert that Robinson's petition should be dismissed without prejudice because his petition challenges multiple convictions resulting from multiple indictments returned on different dates, and to allow Robinson to file separate petitions challenging his multiple convictions and to clarify which claims apply to each conviction.

7. Respondents aver that, based on the contents of this answer and accompanying exhibits, this petition is due to be denied and dismissed with prejudice, or in the alternative, dismissed without prejudice to allow Robinson to file a separate petition as to each conviction.

CHRONOLOGY OF THE CASE

James Lenwood Robinson was indicted by the Houston County Grand Jury on August 19, 1998, for possession of a forged instrument in the second degree in case number CC-1998-1222. (Exhibit A, pg. 1) Robinson was later indicted on November 9, 1998 for breaking and entering an automobile in case number CC-1998-1628. (Exhibit A, pg. 9)

Robinson entered guilty pleas as charged on May 4, 1999, and was sentenced the same day to twenty-five years' imprisonment. It should be noted that the trial court clearly sentenced Robinson to twenty-five years' imprisonment, with fifteen years to run concurrent with the remaining fifteen years Robinson had

to serve on case number CC-1988-125. No portion of the sentence was suspended, as Robinson contends. (Exhibit A, pg. 2, 10) Robinson did not pursue a direct appeal of his convictions to the Alabama Court of Criminal Appeals.

CC-1998-1222

On May 24, 1999, Robinson filed a motion for "Reconsideration of Consecutive Sentences, For Order By Nunc Pro Tunc". The trial court denied the motion on May 26, 1999. (Exhibit A, pg. 2)

CC-1998-1628

On May 24, 1999, Robinson filed a motion for "Reconsideration of Consecutive Sentences, For Order By Nunc Pro Tunc". The trial court denied the motion on May 26, 1999. (Exhibit A, pg. 10)

On January 19, 2005, Robinson filed a Petition or Writ of Habeas Corpus in the Houston County Circuit Court, alleging that:

1. By law, he was entitled to "good time credit";
2. Section 13A-5-9 was unevenly applied to his case, in violation to his right to equal protection;
3. Split sentencing rules are unfair.

(Exhibit B) The trial court dismissed the petition and Robinson appealed to the Alabama Court of Criminal Appeals. The case was docketed as case number CR-04-1138. The State responded and on June 10, 2005, the Court of Criminal Appeals affirmed the lower court's ruling. (Exhibit H) The Alabama Court of

Criminal Appeals issued a Certificate of Judgment on July 20, 2005. (Exhibit I) Robinson did not apply for rehearing in the Alabama Court of Criminal Appeals, nor did he apply for a writ of certiorari in the Alabama Supreme Court.

On October 18, 2005, Robinson filed a "Motion To Vacate Order and Amend" and a "Motion To Amend and Supplement Under Statute's 13A-5-9.1 and Code Of Al. 1975 14-9-41(a)(e)", alleging that he qualified under Ex Parte Kirby to have his sentence reconsidered, that he should be entitled to earn "good time credit", and that failure to grant him reconsideration or "good time credit" violated his right to equal protection under the law . His motions were denied by the trial court because Robinson's sentence did not qualify for reconsideration under Alabama law. (Exhibit C)

On October 25, 2005, Robinson filed a notice of appeal. His case was docketed in the Alabama Court of Criminal Appeals as case number CR-05-0233. Robinson claimed that the trial court erred in denying his motion to reconsider his sentence on grounds that his sentence was not eligible for reconsideration. (Exhibit D) The State responded and on January 20, 2006, Robinson filed a reply brief and argument. (Exhibit E)

On June 23, 2006, the Alabama Court of Criminal Appeals affirmed the trial court's denial of Robinson's motion to reconsider his sentence in an unpublished memorandum opinion, finding that Robinson's sentence in the underlying case was

not eligible for reconsideration under Section 13A-5-9.1 Alabama Code (1975). (Exhibit F) The Alabama Court of Criminal Appeals issued a Certificate of Judgment on July 11, 2006. (Exhibit G) Robinson did not apply for rehearing in the Alabama Court of Criminal Appeals, nor did he apply for a writ of certiorari in the Alabama Supreme Court.

CC-1998-1222 and CC-1998-1628

On October 10, 2006³, Robinson filed a Rule 32 petition in the Houston County Circuit Court as to case numbers CC-1998-1222 and CC-1998-1628. As grounds for his petition, Robinson raised the following claims:

1. His guilty plea was not knowingly entered because he thought he was being sentenced to twenty-five years' imprisonment, with fifteen years suspended; and,
2. The actual length of his sentence was newly discovered information to him.

Even though this writer has not received official documentation, this writer personally spoke to Circuit Judge Edward Jackson by telephone on December 19, 2006 and was informed that the petition has been dismissed on grounds that Robinson's claims were insufficiently pleaded and time-barred.

On November 27, 2006, Robinson filed this present §2254 petition raising, as best this writer can ascertain, the following grounds for relief:

³ Robinson's petition was stamped as having been received and filed by the circuit clerk on December 4, 2006.

1. That his right to equal protection was violated because his sentence was not eligible for reconsideration or “good time credit”; and,
2. That his guilty plea was unlawfully induced and not knowingly entered.

GROUND FOR DISMISSAL

Respondents assert that Robinson’s petition should be dismissed without prejudice to give him an opportunity to file separate petitions challenging his multiple convictions. As demonstrated by the procedural history above, the two convictions challenged differ in that they were indicted at different times and involve different criminal acts. Further, Robinson has treated them differently in the various post-trial motions and petitions that he has filed. Rule 2(e) of the United States Code Governing Section 2254 cases provides that, “[a] petitioner who seeks relief from judgments of more than one state court must file a separate petition covering the judgment or judgments of each court.” Respondents aver that Rule 2(e) prohibits challenging multiple, unrelated convictions in a single petition. Ordinarily, the Respondent would recommend that this petition be dismissed on these grounds; however, such action would be futile because Robinson’s claims as to both of his convictions are barred by the statute of limitation as set forth below.

STATUTE OF LIMITATION

State inmates seeking federal habeas review of their claims have a one-year statute of limitation, unless the conviction was final before the effective date of the AEDPA, which was April 24, 1996. Robinson was sentenced (in both cases challenged in his petition) on May 4, 1999. His last day to file a notice of appeal in state court was June 16, 1999.⁴ From that date, over six years passed until Robinson filed his motions in the trial court in case number CC-1998-1222, and more than five years passed until Robinson filed his habeas corpus petition in the trial court in case number CC-1998-1628. Clearly, more than one year elapsed between the day Robinson's judgment became final until he filed any motion or petition in the state court that would toll the time within which he could timely file his §2254 petition. Thus, his petition is time-barred.

EXHAUSTION

Moreover, the claims in this petition are either technically exhausted for having been presented in state court or are effectively exhausted because there is no longer an available state remedy as the time has long expired to take a direct appeal. Further, the case action summary in case number CC-1998-1628 indicates

⁴ According to Rule 4.1, Alabama Rules of Appellate Procedure, Robinson's motion for reconsideration of sentence did not toll the time within which he could file a timely notice of appeal.

that Robinson currently has a Rule 32 petition pending in the trial court. Any additional post-conviction petition in case number CC-1998-1628 would be precluded by Alabama Rules of Criminal Procedure Rule 32.2(b) as a successive petition, and any post-conviction petition in case number CC-1998-1222 would be time-barred, absent a showing by the petitioner that the trial court lacked jurisdiction, or that material newly discovered evidence exists which could not have been discovered earlier.

PROCEDURAL DEFAULT

The claims raised by Robinson in this present habeas petition are also procedurally defaulted on more than one basis. First, the grounds are procedurally defaulted for not having raised them on direct appeal. *See, Bailey v. Nagle*, 172 F. 2d 1299, 1302-1303 (11th Cir. 1999), *citing Wainwright v. Sykes*, 433 U.S. 72, 87 (1977). The claims are also procedurally defaulted for having failed to present them to the highest state court either on direct appeal or appeal of the denial of the state habeas petition. *O'Sullivan v. Boerckel*, 526 U.S. 838, 843-845 (1999). Additionally, the grounds of the petition that were presented to the state court in his state habeas petition are procedurally barred for Robinson's having failed to present them on appeal from the denial of the state habeas petition. *See, Collier v. Jones*, 910 F. 2d 770 (11th Cir. 1990).

In sum, no further habeas review or relief is due on this petition until such time that Robinson establishes cause and prejudice for his default and this Court determines this issue adversely to Respondents. *See, Jones v. White*, 992 F. 2d 1546, 1565 (11th Cir. 1993).

CONCLUSION

Based on the foregoing, this petition is due to be denied and dismissed with prejudice.

EXHIBIT LIST

- Exhibit A - Copies of the trial court's Case Action Summaries. CC-1998-1222, CC-1998-1486, CC-1998-1626, CC-1998-1627, and CC-1998-1628.
- Exhibit B - Copy of the record on appeal to the Alabama Court of Criminal Appeals regarding the appeal of the dismissal of Robinson's petition for a writ of habeas corpus in State court in case number CC-1998-1628. Alabama Court of Criminal Appeals case number CR-04-1138.
- Exhibit C - Copy of the record on appeal to the Alabama Court of Criminal Appeals regarding the appeal of the denial of Robinson's motions to reconsider his sentence in case number CC-1998-1628. Alabama Court of Criminal Appeals case number CR-05-0233.
- Exhibit D - Copy of Robinson's brief on appeal. Alabama Court of Criminal Appeals case number CR-05-0233.

Exhibit E - Copy of Robinson's reply brief and argument. Alabama Court of Criminal Appeals case number CR-05-0233.

Exhibit F - Memorandum opinion of the Alabama Court of Criminal Appeals affirming the trial court's summary dismissal of Robinson's motions to reconsider his sentence in CC-1998-1628. Alabama Court of Criminal Appeals case number CR-05-0233.

Exhibit G - Certificate of Judgment issued by the Alabama Court of Criminal Appeals as to CC-1998-1628. (Alabama Court of Criminal Appeals case number CR-05-0233.)

Exhibit H - Memorandum opinion of the Alabama Court of Criminal Appeals affirming the trial court's summary dismissal of Robinson's motions to reconsider his sentence in CC-1998-1628. Alabama Court of Criminal Appeals case number CR-04-1138.

Exhibit I - Certificate of Judgment issued by the Alabama Court of Criminal Appeals as to CC-1998-1628. (Alabama Court of Criminal Appeals case number CR-04-1138.)

Exhibit J - Copy of Robinson's "Habeas Corpus - Rule 32 Relief" petition filed in the circuit court on October 10, 2006.

Respectfully submitted,

Troy King, ID #KIN047

Attorney General

By-

s/Nancy M. Kirby

Nancy M. Kirby ID #KIR031

Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of December, 2006, I electronically filed the foregoing Answer and exhibits with the Clerk of the Court using the CM/ECF; and I hereby certify that I have mailed by United States Postal Service the foregoing (including all exhibits) to the following non-CM/ECF participants: James Lenwood Robinson, AIS #121865, 565 Bibb Lane, Brent, AL 35034.

Respectfully submitted,

s/Nancy M. Kirby (KIR031)
Nancy M. Kirby (KIR031)
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11 South Union
Montgomery, AL 36130-0152
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Fax: (334) 242-2848
E-Mail: nancykirbylaw@bellsouth.net

2115022/102559-001

AC60370 ALABAMA JUDICIAL INFORMATION SYS CASE: CC 98 001222.00
 OPER: PAS CASE ACTION SUMMARY
 PAGE: 1 CIRCUIT CRIMINAL RUN DATE: 09/23/98
 IN THE CIRCUIT COURT OF HOUSTON JUDGE: SE.

STATE OF ALABAMA VS ROBINSON JAMES LENWOOD
 CASE: CC 98 001222.00 616 PINTO DR
 DOTHAN, AL 36301 0000

DOB: 01/20/52 SEX: M RACE: B HT: 5 09 WT: 210 HR: BLK EYES: BRO
 SSN: 420729201 ALIAS NAMES:
 CHARGE1: POSS FORCED INSTR 2N CODE1: CFF2 LIT: POSS FORCED INS TYP: F
 MORE?: OFFENSE DATE: 11/11/97 AGENCY/OFFICER: 0380100 KILPATR
 DATE WAR/CAP ISS: DATE ARRESTED: 11/12/97
 DATE INDICTED: 08/19/98 DATE FILED: 09/23/98
 DATE RELEASED: 11/12/97 DATE HEARING:
 BOND AMOUNT: \$10,000.00 SURETIES: PROPERTY

DATE 1: 10/14/98 DESC: ARRG TIME: 0900 A
 DATE 2: 11/16/98 DESC: TRAL TIME: 0930 A
 DEF/ATY: Jack Blumfeld (A) TYPE:
 PROSECUTOR: VALESKA, DOUGLAS A TYPE:
 OTH CSE: 9700287500 CHK/TICKET NO: WR97 6166 BRAND JURY: 000238
 COURT REPORTER: SID NO: 000000000
 DEF STATUS: BOND DEMAND: OFFER: PAS

NOTE: WARRANT ISSUED 111297

DATE	ACTIONS, JUDGEMENTS, AND NOTES
10-14-98	Arrestment Continued - J. Lee, Judge
10-23-98--	Transport Order. (in file)
11-4-98	WAIVER OF ARRAIGNMENT
11-5-98	RECIPROCAL DISCOVERY ORDER Within 14 days of this order, the State and Defendant will make available for inspection and copying all materials discoverable under the Alabama Rules of Criminal Procedure. In addition, the State will make any exculpatory materials available to the defense. The State will make its materials available at the District Attorney's office and the defense will do likewise at defense counsel's office. (11-10-98 J.B. + D.V.) Edward Jackson, Judge CIRCUIT JUDGE
11-6-98--	Motion for discovery.
4-20-99	Consolidation Order (In File)
4-15-99	Retention to Transport
4-16-99	G.U. Order (In File)
4-21-99--	Opposition to consolidation.

4-28-99 - NOTICE TO DEFENDANT OF PREVIOUS CONVICTIONS &
NOTICE OF INTENT TO USE SUCH CONVICTIONS FOR IMPEACHMENT PURPOSES

May 3, 1999 - Motion to Transport

5/4, 1999

On this day appeared the Defendant with his attorney and,
with the consent and approval of his attorney, withdrew his
plea of not guilty and entered a plea of guilty to

1st Degree Murder
Before accepting Defendant's plea of guilty, the Court advised
the Defendant of all of his constitutional rights with the
colloquy being taken on the record. The Court
then permitted the Defendant to enter a plea of not guilty
and enter a plea or protest. The Court inquired
of Defendant if he had any objections to the judgment and
sentence should be entered against him and Defendant
said nothing. It is ordered by the
Court that the Defendant be sentenced as a
punishment Defendant be sentenced to

☒ the penitentiary,

☐ Houston County
on which he is being
incarcerated pending trial

restitution to _____ of the amount of

_____, a fine of \$100 and a work compensation
assessment of \$100, and all Court Costs.

The sentence is suspended for a period of _____ on payment
of fine, costs, and restitution and good behavior.

JUDGE

Shirley file probation order w/ 10 days
after which Def. to file objections w/ 10 days

5-13-99 Wanda Ruth

5-17-99 gave back copies of CAS

5-24-99 Filed Motion for Reconsideration of Consecutive Sentences, For Order by
Nunc Pro Tunc.

5/26/99 Motion denied, Jackson, J.
5-29-99 - N. DA Dept.

AC00370 ALABA JUDICIAL INFORMATION SYS1 CASE: CC 98 001486.00
 OPER: PAS CASE ACTION SUMMARY RUN DATE: 11/20/98
 PAGE: 1 CIRCUIT CRIMINAL JUDGE: SEJ
 IN THE CIRCUIT COURT OF HOUSTON

STATE OF ALABAMA VS ROBINSON JAMES LENWOOD
 CASE: CC 98 001486.00 616 PINTO DRIVE
 DOTHAN, AL 36301 0000

DOB: 01/20/52 SEX: M RACE: B HT: 5 10 WT: 230 HR: BLK EYES: BRO
 SSN: 420729201 ALIAS NAMES:
 CHARGE1: BREAK/ENTER AUTO CODE1: BEMV LIT: BREAK/ENTER AUT TYP: F
 MORE?: OFFENSE DATE: 08/29/98 AGENCY/OFFICER: 0380100 S OWENS

DATE WAR/CAP ISS: DATE ARRESTED: 08/29/98
 DATE INDICTED: 11/09/98 DATE FILED: 11/20/98
 DATE RELEASED: 08/29/98 DATE HEARING:
 BOND AMOUNT: \$3,000.00 SURETIES: PROPERTY

DATE 1: 12/09/98 DESC: ARRO TIME: 0900 A
 DATE 2: 01/11/99 DESC: TRAL TIME: 0830 A

DEF/ATY: BLUMENFELD, JACK A TYPE: A
 PROSECUTOR: VALESKA, DOUGLAS A TYPE:

OTH CSE: 9800195000 CHK/TICKET NO: WR98 7059 GRAND JURY: 000205
 COURT REPORTER: SID NO: 000000000
 DEF STATUS: BOND DEMAND:

NOTE: WARRANT ISSUED 082998

DATE ACTIONS, JUDGEMENTS, AND NOTES

12-2-98 Motion to Transport

12-7-98 Pick up Car. (In File)

12-9-98

WAIVER OF ARRIGNMENT

12-9-98

Within 14 days of this order, the state and the
 defendant will make available for inspection
 and copying all materials discoverable
 under the Alabama Rules of Criminal Procedure.
 In addition, the state will make any
 exculpatory materials available to the defense.
 The state will make its materials at the
 District Attorney's office and the defense
 will do likewise at defense counsel's office.

(12-23-98 N-J.B. & D.V.)

Derry Hallway
 CIRCUIT JUDGE

12-22-98
 4-15-99
 4-20-99

Motion for Discovery
 Motion to Transport
 Consolidation Order. (In File)

4-21-99--Opposition to consolidation.

4-28-99 NOTICE TO DEFENDANT OF PREVIOUS CONVICTIONS &
NOTICE OF INTENT TO USE SUCH CONVICTIONS FOR IMPEACHMENT PURPOSES

5-3-99 Motion to Transport.

5/4, 1999

On this day appeared the Defendant with his attorney and,
with the consent and approval of his attorney, withdrew his

plea of not guilty and entered a plea of guilty to _____

BE E Automobile

Before accepting Defendant's plea of guilty, the Court advised
the Defendant of all of his constitutional rights with the
colloquy being taken by the Court. The Court
then permitted the Defendant to enter his plea of not guilty
and enter a plea of guilty to the charge. The Court inquired
of Defendant if he had been previously adjudged by the
Court that the Defendant was charged and as a
punishment Defendant was sentenced to

☒ the penitentiary for a term of 25 years under FHOA consent with CC 96-1222
☐ Houston County for a term of _____
on which he is hereby sentenced. The Court spent incar-
cerated pending trial. The Court is ordered to pay

ad CC 88-125

restitution to _____ in the amount of

_____, a fine of \$100 and a victim compensation
assessment of \$100, as well as all Court Costs.

The sentence is suspended for a period of _____ on payment
of fine, costs, and restitution and good behavior.

Jah
JUDGE

5-13-99 Wanda Ruth

5-17-99 Have back copy of CAS

5-18-99 Motion For Restitution

3/21/99 Restitution Order granted for the terms, Johnson, J.
(5-24-99 - J.E. La)

ACSO370 ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 98 001626.00
 OPER: PAS CASE ACTION SUMMARY RUN DATE: 12/15/98
 PAGE: 1 CIRCUIT CRIMINAL JUDGE: SE.
 IN THE CIRCUIT COURT OF HOUSTON

STATE OF ALABAMA VS ROBINSON JAMES LENWOOD
 CASE: CC 98 001626.00 % HOUSTON COUNTY JAIL
 DOTHAN, AL 36302 0000

DOB: 01/20/52 SEX: M RACE: B HT: 6 00 WT: 230 MR: BLK EYES: BRO
 SSN: 420729201 ALIAS NAMES:

CHARGE1: FORGERY 2ND CODE1: FOR2 LIT: FORGERY 2ND TYPE: F
 MORE?: OFFENSE DATE: 08/22/98 AGENCY/OFFICER: 0380100 MEREDIX

DATE WAR/CAP ISS: DATE INDICTED: 11/09/98 DATE ARRESTED: 09/04/98
 DATE RELEASED: BOND AMOUNT: \$1,000.00 DATE FILED: 12/15/98
 DATE HEARING: SURETIES:

DATE 1: 01/06/98 DESC: ARRO TIME: 0900 A
 DATE 2: 02/22/98 DESC: TRAL TIME: 0830 A

DEF/ATY: BLUMENFELD, JACK A TYPE: A
 PROSECUTOR: VALESKA, DOUGLAS A TYPE:

OTH CSE: 9800201000 CHK/TICKET NO: WR98-7070 GRAND JURY: 000217
 COURT REPORTER: SID NO: 000000000
 DEF STATUS: JAIL DEMAND:

NOTE: WARRANT ISSUED: 090498

DATE ACTIONS, JUDGEMENTS, AND NOTES

WAIVER OF ARRAIGNMENT

RECIPROCAL DISCOVERY ORDER

Within 14 days of this order, the State and Defendant will make available for inspection and copying all materials discoverable under the Alabama Rules of Criminal Procedure. In addition, the State will make any exculpatory materials available to the defense. The State will make its materials available at the District Attorney's office and the defense will do likewise at defense counsel's office.

CIRCUIT JUDGE

1-12-99 Motion for Discovery

4-20-99 Consolidation Order (for 1st File)
4-15-99 Motion for Transport

4-21-99 Opposition to consolidation.

NOTICE TO DEFENDANT OF PREVIOUS CONVICTIONS &
 NOTICE OF INTENT TO USE SUCH CONVICTIONS FOR IMPEACHMENT PURPOSES

5399 Motion to Transport

5/4, 1999

On this day appeared the Defendant with his attorney and, with the consent and approval of his attorney, withdrew his plea of not guilty and entered a plea of guilty to _____

Before accepting Defendant's plea of guilty, the Court advised the Defendant of all consequences of his plea with the colloquy being held in open court. The Court then permitted the Defendant to enter a plea of not guilty and enter a plea of guilty. The Court inquired of Defendant if he understood the consequences and the sentences should not be imposed on him and Defendant said nothing. It is judged by the Court that the Defendant understands the charge and the punishment Defendant is sentenced to _____

☒ the penitentiary for a term of _____
☐ Houston County _____
 on which he is hereby sentenced to be incarcerated pending trial.

restitution to _____ in the amount of _____, a fine of \$100 and a victim compensation assessment of \$20, as well as all Court Costs.

The sentence is suspended for a period of _____ on payment of fine, costs, and restitution and good behavior.

[Signature]
 JUDGE

25 years only H.O.A. 15 years through the pen
 ad CC 88-123
 CC 98-1220

5-13-99 400yd Ruck

5-17-99 Have back copy of CAS

5-18-99 Motion for restitution

5-21-99 Same order as CC98-1486

5-24-99 N.D.A. Judge

[Signature]
 Edward Jackson, Judge

5-24-99 Filed Motion for Reconsideration of Consecutive Sentences, For Order by Nunc Pro Tunc.

5-26-99 Motion denied.

5-27-99 N.D.A. Judge

[Signature]
 Edward Jackson, Judge

ACSD0370 ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 98 001627.00
 OPER: PAS CASE ACTION SUMMARY
 AGE: 1 CIRCUIT CRIMINAL RUN DATE: 12/15/98
 IN THE CIRCUIT COURT OF HOUSTON JUDGE: SEJ
 STATE OF ALABAMA VS ROBINSON JAMES LENWOOD
 CASE: CC 98 001627.00 % HOUSTON COUNTY JAIL
 DOTHAN, AL 36302 0000
 DOB: 01/20/52 SEX: M RACE: B HT: 6.00 WT: 230 HR: BLK EYES: BRO
 SSN: 420729201 ALIAS NAMES:
 CHARGE1: FORGERY 2ND CODE1: FOR2 LIT: FORGERY 2ND TYP: F
 MORE?: OFFENSE DATE: 08/20/98 AGENCY/OFFICER: 0380100 MEREDITH
 DATE WAR/CAP ISS: DATE ARRESTED: 09/04/98
 DATE INDICTED: 11/09/98 DATE FILED: 12/15/98
 DATE RELEASED: DATE HEARING:
 BOND AMOUNT: \$1,000.00 SURETIES:
 DATE 1: 01/04/98 DESC: ARRD TIME: 0900 A
 DATE 2: 02/22/98 DESC: TRAL TIME: 0830 A
 DEF/ATY: BLUMENFELD, JACK A TYPE: A
 PROSECUTOR: VALESKA, DOUGLAS A TYPE:
 OTH CSE: 9800200900 CHK/TICKET NO: WR98-7071 GRAND JURY: 000218
 COURT REPORTER: SID NO: 0000000000
 DEF STATUS: JAIL DEMAND: 0000000000
 NOTE: WARRANT ISSUED: 090498
 DATE ACTIONS, JUDGEMENTS, AND NOTES

1-6-99

WAIVER OF ARRAIGNMENT

Consolidated
J. P. [Signature]
 JUDGE

RECIPROCAL DISCOVERY ORDER

1-6-99, 1999

Within 14 days of this order, the State and Defendant will make available for inspection and copying all materials discoverable under the Alabama Rules of Criminal Procedure. In addition, the State will make any exculpatory materials available to the defense. The State will make its materials available at the District Attorney's office and the defense will do likewise at defense counsel's office.

(1-11-99-J.B. + D.V.)

CIRCUIT JUDGE

1-12-99
 4-15-99

Notice for Discovery
Notice to Transport

4-20-99

Consolidation Order (See 1st File)

4-21-99

Opposition to consolidation.

4-28-99

NOTICE TO DEFENDANT OF PREVIOUS CONVICTIONS &
 NOTICE OF INTENT TO USE SUCH CONVICTIONS FOR IMPEACHMENT PURPOSES.

5-3-99 Motion to Transport

5/4, 1999

On this day appeared the Defendant with his attorney and, with the consent and approval of his attorney, withdrew his plea of not guilty and entered a plea of guilty to _____

Before accepting Defendant's plea of guilty, the Court advised the Defendant of all the consequences of entering a guilty plea. The Court then permitted the Defendant to enter a plea of not guilty and enter a plea of guilty. The Court inquired of Defendant if he understood the consequences of his plea and judgment and sentence should now be pronounced upon him and Defendant said nothing. It is the Court's judgment that the Defendant is a dangerous person and as a punishment, Defendant is sentenced to _____

☒ the penitentiary for a term of _____

☐ Houston County Jail for a term of _____ on which he is hereby sentenced to be incarcerated pending trial.

restitution to _____ in the amount of _____

_____ a fine of _____ and a victim compensation

assessment of _____, as well as all Court Costs.

The sentence is suspended for a period of _____ on payment of fine, costs, and restitution and good behavior.

15 years straight run
25 years under FHDA Concurrent with CC 98-1220
and CC 88-125

JUDGE

5-17-99 Dave gave copy of CAS

5-18-99 Motion for restitution

5-21-99 Same Order as CC 98-1486

(5-24-99) JB DA Edward Jackson, Judge

5-24-99 Filed Motion for Reconsideration of Consecutive Sentences, For Order by Nunc Pro Tunc.

5-26-99 Motion denied

5-27-99 N. DA Rgt

Edward Jackson, Judge

ACS0370 ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 98 001628.00
OPER: FAG CASE ACTION SUMMARY RUN DATE: 12/15/98
AGE: 1 CIRCUIT CRIMINAL JUDGE: SEJ
IN THE CIRCUIT COURT OF HOUSTON

STATE OF ALABAMA VS ROBINSON JAMES LENWOOD
% HOUSTON COUNTY JAIL
CASE: CC 98 001628.00 DOTHAN, AL 36302 0000

DOB: 01/20/52 SEX: M RACE: B HT: 5 09 WT: 230 MR: BLK EYES: BRO
SSN: 420729201 ALIAS NAMES:

CHARGE1: BREAK/ENTER AUTO CODE1: DEMV LIT: BREAK/ENTER AUT TYP: F
MORE?: OFFENSE DATE: 09/01/98 AGENCY/OFFICER: 0380100 A RILEY

DATE WAR/CAP ISS: DATE ARRESTED: 09/10/98
DATE INDICTED: 11/09/98 DATE FILED: 12/15/98
DATE RELEASED: DATE HEARING:
BOND AMOUNT: \$1,000.00 SURETIES:

DATE 1: 01/06/98 DESC: ARRG TIME: 0900 A
DATE 2: 02/22/99 DESC: TRAL TIME: 0830 A

DEF/ATY: BLUMENFELD, JACK A TYPE: A TYPE:
PROSECUTOR: VALESKA, DOUGLAS A

OTH CSE: 9800204700 CHK/TICKET NO: WR98 7084 GRAND JURY: 000229
COURT REPORTER: SID NO: 000000000
DEF STATUS: JAIL DEMAND: OFFER: FAG

NOTE: WARRANT ISSUED 091098

DATE ACTIONS, JUDGEMENTS, AND NOTES

1-6-99

WAIVER OF ARRAIGNMENT

RECIPROCAL DISCOVERY ORDER

1-6-99
Within 14 days of this order, the State and Defendant will make
available for inspection and copying all materials discoverable under
the Alabama Rules of Criminal Procedure. In addition, the State
make any exculpatory materials available to the defense. The
will make its materials available at the District Attorney's office
and the defense will do likewise at defense counsel's office.

CIRCUIT JUDGE

1-12-99
4-15-99
4-20-99

Notice of Discovery
Notice of Intent to Use Previous Convictions
Consolidation Order (An 1st 2nd)

4-21-99--

Opposition to consolidation.

4-28-99

NOTICE TO DEFENDANT OF PREVIOUS CONVICTIONS &
NOTICE OF INTENT TO USE SUCH CONVICTIONS FOR IMPEACHMENT PURPOSES

5-3-99 Motion to Transport

5/4 1999

On this day appeared the Defendant with his attorney and, with the consent and approval of his attorney, withdrew his plea of not guilty and entered a plea of guilty to _____

Ag E. Arta

Before accepting Defendant's plea of guilty, the Court advised the Defendant of all of his constitutional rights with the colloquy being taken on the record. The Court then permitted the Defendant to enter a plea of not guilty and enter a plea of guilty to the charge. The Court inquired of Defendant if he had anything to say, why judgement and sentence should not be imposed upon him and Defendant said nothing. It is the Court's finding and adjudged by the Court that the Defendant is guilty of the charge and as a punishment Defendant is hereby sentenced to _____

☒ the penitentiary of the State of Missouri for a term of 25 years

☐ Houston County Jail to hold for a term of _____ on which he is hereby given credit for the time spent incarcerated pending trial. Defendant is ordered to pay

restitution to _____ in the amount of _____, a Fine of \$100 and a victim compensation assessment of \$100, as well as all Court Costs.

The sentence is suspended for a period of _____ or payment of fine, costs, and restitution and good behavior.

Jackson
JUDGE

*ends FHQA 15 years long to run
concurrent with CC 98-125
and CC 98-1222*

5-13-99 *unofid Ruth*
5-17-99 *Dave gask Copy CAB*
5-18-99 *Motion for restitution*
5-21-99 *Same order as CC 98-1222*

(5-24-99 N. DA) Edward Jackson, Judge

5-24-99 Filed Motion for Reconsideration of Consecutive Sentences, for Order by Nun Pro Tunc.

5-26-99 Motion denied

5-27-99 N. DA, Rgt

Edward Jackson, Judge

COURT OF CRIMINAL APPEALS No. CR 04-1138

APPEAL TO ALABAMA COURT OF CRIMINAL APPEALS

FROM

CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

CIRCUIT COURT NO. CC-1998-1628.60

CIRCUIT JUDGE EDWARD JACKSON

Type of Conviction / Order Appealed From: PETITION FOR HABEAS

Sentence Imposed: PETITION DENIED

Defendant Indigent: ☒ YES ☐ NO

JAMES LENWOOD ROBINSON #43410

NAME OF APPELLANT

PRO-SE

(Appellant's Attorney)

(Telephone No.)

901 E. MAIN ST.

(Address)

DOTHAN

AL

36303

(City)

(State)

(Zip Code)

V.

STATE OF ALABAMA

NAME OF APPELLEE

(State represented by Attorney General)

NOTE: If municipal appeal, indicate above, and enter
name and address of municipal attorney below.

(For Court of Criminal Appeals Use Only)

CLERK'S INDEX:

CASE ACTION	1
PETITION FOR WRIT OF HABEAS CORPUS	2-14
ORDER DATED 1-20-05, PETITION DENIED	15
WRITTEN NOTICE OF APPEAL	16
ORDER DATED 2-9-05, FREE TRANSCRIPT ORDERED	17
COURT OF CRIMINAL APPEALS DOCKETING STATEMENT	18
REPORTER'S TRANSCRIPT ORDER	19
CERTIFICATE OF COMPLETION	20

01

ACR00372 ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 1998 001628.60
 OPER: RHM CASE ACTION SUMMARY
 1-28-05 1 CIRCUIT CRIMINAL RUN DATE: 01/20/2005
 THE CIRCUIT COURT OF HOUSTON JUDGE: GEJ

STATE OF ALABAMA VS ROBINSON JAMES LENWOOD
 CASE: CC 1998 001628.60 % HOUSTON COUNTY JAIL
 901 E MAIN ST
 DOTHAN, AL 36301 0000

DOB: 01/20/1952 SEX: M RACE: B HT: 5 09 WT: 230 HR: BLK EYES: BRO
 SSN: 420729201 ALIAS NAMES:
 CHARGE01: HABEAS CORPUS CODE01: CORP LIT: HABEAS CORPUS TYP: D #: 001
 OFFENSE DATE: 09/01/1998 AGENCY/OFFICER: 0350100 A RILEY

DATE WAR/CAP ISS: DATE ARRESTED: 09/10/1998
 DATE INDICTED: 11/09/1998 DATE FILED: 01/19/2005
 DATE RELEASED: DATE HEARING:
 BOND AMOUNT: \$.00 SURETIES:

DATE 1: DESC: TIME: 0800
 DATE 2: DESC: TIME: 0800

TRACKING NOS:

DEF/ATY:

TYPE:

TYPE:

00000

00000

PROSECUTOR: VALESKA DOUGLAS A

7TH CSE: 000000000000 CHK/TICKET NO: WR98 7084 GRAND JURY: 000229
 WRT REPORTER: SID NO: 0000000000
 STATUS: JAIL DEMAND: OPER: RHM

NOTE: WARRANT ISSUED 091098

9800204700

DATE ACTIONS, JUDGEMENTS, AND NOTES

1-19-05	Petition for Writ of Habeas Corpus
1/20/05	Petition denied. (1-28-05 N! Sept)
1-31-05	Written Notice of appeal.
2/7/05	Free transcript order.
2-10-05	CCA Docketing Statement and CR transcript order filed.
2-17-05	CCA docketing statement and cr transcript order to CCA, AG

IN THE CIRCUIT COURT OF
HOUSTON COUNTY, ALABAMA

FILED

JAN 19 2005

Judy Byrd

JUDY BYRD, CLERK
HOUSTON CO., AL

JAMES ROBINSON

PETITIONER

VS

LAMAR CLOVER ET AL.

RESPONDENT

CASE NO. CC98-1628

(TO BE SUPPLIED BY CLERK)

PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW JAMES ROBINSON, PETITIONER
who files pro se and pursuant to HABEAS CORPUS
Code of ALABAMA 1975 SECTION 15-21-1 AND REQUEST
THE COURT TO ISSUE THE WRIT WITHOUT
DELAY. THE FOLLOWING FACTS, AND GROUNDS TO WIT:

PETITIONER - JAMES ROBINSON IS INCARCERATED
AND HELD IN CUSTODY AT HOUSTON COUNTY
LOCATED IN DOTMAN ALABAMA.

RESPONDENTS - LAMAR CLOVER IS THE
SHERIFF OR WARDEN OF THE HOUSTON CO. JAIL
AND ATTORNEY GENERAL FOR THE STATE OF
ALABAMA.

PAGE 2

JURISDICTION- THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA IS THE NEAREST CIRCUIT COURT TO HEAR THE WRIT OF HABEAS CORPUS.

Grounds For Writ To Issue

I. THE PLAIN MEANING OF Code of ALABAMA 1975 SECTION 14-9-41(C) IS NOT IN CONTROL.

(A) THE LANGUAGE AND STATED MEANING:

"EACH PRISONER WHO SHALL HEREAFTER BE CONVICTED OF ANY OFFENSE AGAINST THE LAWS OF THE STATE OF ALABAMA AND IS CONFINED, IN EXECUTION OF THE JUDGMENT OR SENTENCE UPON ANY CONVICTION OTHER THAN FOR LIFE SPECIFIED BY THIS ARTICLE MAY BE ENTITLED TO EARN A DEDUCTION FROM THE TERM OF HIS SENTENCE AS FOLLOWS"

(B) WHERE THE LANGUAGE IN THIS STATUTE IS CLEAR THEN THE ACTUAL INTENT OF THE LEGISLATURE MUST BE ACCOMPLISHED.

1. PETITIONER UNDER THE CLEAR MEANING OF THE STATUTE HAS BECOME THE SUBJECT OF

PAGE 3

04

CONSTITUTIONAL VIOLATIONS, UNDER THE SIXTH, EIGHTH, AND FOURTEENTH AMENDMENTS.

2. PETITIONER STATES THAT UNDER CODE OF ALABAMA 1975 SECTION 14-9-41(c) THE ORIGINAL LANGUAGE REFERRED TO A SENTENCE FOR MORE THAN 10 YEARS. THEN THE McDONALD AMENDMENT DID AWAY WITH 10 YEARS AND INCREASED TO 15 YEARS.

3. PETITIONER'S CONSTITUTIONAL RIGHTS ARE VIOLATED WHERE THE STATE OF ALABAMA VIOLATE THE ENTIRE STATUTE FOR GRANTING CIT GOOD TIME AS A WHOLE.

UNDER HILSABECK V. STATE, 477 So.2d 465 477 So.2d 472 (ALA. 1985) THE COURT HELD THAT HABITUAL FELONY OFFENDERS WERE EXCLUDED FROM EARNING AND RECEIVING CIT GOOD TIME.

UNDER CODE OF ALABAMA 1975 SECTION 14-9-41(h) SPECIFICALLY STATES, "AFTER MAY 19, 1980 EXCEPT THOSE CONVICTED OF CRIMES OF THE UNLAWFUL SALE OR DISTRIBUTION OF CONTROLLED SUBSTANCES AS ENUMERATED IN TITLE 13A". CIT GOOD TIME COULD NOT BE GIVEN TO THESE OFFENDERS.

PAGE 4

05

4. PETITIONER STATES THAT ALABAMA DEPARTMENT OF CORRECTIONS PROVIDE CIT GOOD TIME TO INMATES CONVICTED OF DRUG SALES, AND TO HABITUAL FELONY OFFENDERS.

THE CONSTITUTIONAL DISCRIMINATION WITH CODE OF ALABAMA 1975 SECTION 14-9-41(C) COMES TO DENY AND DEPRIVE YOUR PETITIONER OF THE REAL MEANING OF THE STATUTE'S INTENT AS THE LEGISLATURE INTENDED, PURPOSE.

PETITIONER STATES THAT LEGISLATIVE INTENT WAS TO PROVIDE A LEGAL MEANS TO PREVENT OVER CROWDING OF PRISONS, AND TO SERVE THE CORRECTIONAL GOALS TO DETER CRIME. ANY PRISONER WHO IS SENTENCED UNDER THE PROVISIONS OF 13A-5-9 AND RECEIVES THE MINIMUM OF 15 YEARS HE IS DECLARED LEGALLY A HABITUAL OFFENDER, WHERE THE MINIMUM UNDER A CLASS C FELONY WITH 3 PRIOR CONVICTIONS IS 15 YEARS. THE TRUE MEANING OF THE STATUTE WOULD SERVE TO GRANT ALL NON-VIOLENT OFFENDERS CIT GOOD TIME, ALL EXCEPT LIFE.

THEREFORE DUE TO THE DEMONSTRABLY RESULTS, OTHERS HAVE USED THE INTERPRETING OF THIS STATUTE TO BE AT ODDS WITH THE INTENTION

GROUND I.

I. CODE OF ALABAMA 1975 SECTION 14-9-41(a) LEGISLATIVE INTENT UNDER PRECISE PLAIN LANGUAGE.

1. THE PLAIN MEANING OF CODE OF ALABAMA 1975 SECTION 14-9-41(a) "EACH PRISONER WHO SHALL HEREAFTER BE CONVICTED OF ANY OFFENSE AGAINST THE LAWS OF THE STATE OF ALABAMA AND IS CONFINED IN EXECUTION OF THE JUDGMENT OR SENTENCE UPON ANY CONVICTION OTHER THAN FOR LIFE SPECIFIED BY THIS ARTICLE MAY BE ENTITLED TO EARN A DEDUCTION FROM THE TERM OF HIS SENTENCE AS FOLLOWS."

2. EACH PRISONER WHO SHALL. THE WORD SHALL IS CONSIDERED PRESUMPTIVELY MANDATORY.

3. WHERE THE LANGUAGE IN THIS STATUTE IS CLEAR THEN THE ACTUAL INTENT OF THE LEGISLATURE MUST BE ACCOMPLISHED AS FOLLOWS.

4. SECTION 14-9-41(b) [Let's Follow AS STATED IN 14-9-41(c)] 14-9-41(b) Follows AND SAYS:

"WITHIN 90 DAYS AFTER MAY 19, 1980 THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS SHALL ESTABLISH..... SUCH CLASSIFICATIONS SHALL ENCOMPASS CONSIDERATION."

5. 14-9-41(c) AND 14-9-41(b) SAYS: SHALL - SHALL ESTABLISH - SHALL ENCOMPASS CONSIDERATION. SHALL MANDATES UNDER THESE TWO STATUTES SUBSER. BY LANGUAGE; EACH PRISONER SHALL AFTER BEING CONVICTED OF ANY OFFENSE AGAINST THE LAWS OF THE STATE OF ALABAMA OTHER THAN FOR LIFE, SHALL BE AFTER MAY 19, 1980. THE COMMISSIONER SHALL, AND SUCH CLASSIFICATIONS SHALL ENCOMPASS CONSIDERATION.

6. 14-9-41(c)(4) ANY INMATE SHALL REMAIN IN THIS CLASSIFICATION FOR A MINIMUM PERIOD OF 30 DAYS BEFORE BEING ELIGIBLE FOR CLASS III.

7. THE STATUTORY SCHEME, THE PRECISE PLAIN MEANING EXIST FOR ANY INMATE OTHER THAN FOR LIFE. 14-9-41(c)(4) Provides FOR 30 DAYS BEFORE BEING ELIGIBLE FOR CLASS III.

8. THEREFORE ALABAMA CORRECTIONAL INCENTIVE TIME GRANTS EACH PRISONER OTHER THAN LIFE A CLASSIFICATION TO BE PLACED IN ONE OF THE EARNING STATUS.

GROUND II. CODE OF ALABAMA 1975 SECTION 13A-5-9 BEING UNEVENLY APPLIED

1. CODE OF ALABAMA 1975 SECTION 13A-5-9 PROVIDES MANDATORY LANGUAGE. MUST IS MANDATORY. "IN ALL CASES WHEN IT IS SHOWN THAT A CRIMINAL DEFENDANT HAS BEEN PREVIOUSLY CONVICTED. HE OR SHE MUST BE PUNISHED.

2. STATE OF ALABAMA HAVE INTENTIONALLY AND KNOWINGLY APPLIED THE SENTENCING DISCRIMINATORILY, UNEVENLY WHICH MAKES IT UNLAWFUL AND ENVIROUS.

3. THE STATUTE HAS BEEN AND IS STILL BEING USED IN VIOLATION OF THE FOURTEENTH AMENDMENT.

GROUND THREE III.
WHETHER SPLIT SENTENCING NOW
PROVIDES RELEASE OF SERIOUS
CRIMINAL OFFENDERS - CONFLICTING
WITH SUBSECTION (c) 14-9-41(c)

1. Code of ALABAMA 1975 SECTION 15-18-8(c)
NOW PROVIDES THE SENTENCE OF 20
YEARS UNDER CONVICTIONS.
2. THE STATE OF ALABAMA HAS SENTENCE
KIDNAPPING, ROBBERY, AND DRUG TRAFFICKING
UNDER THE SPLIT-SENTENCE TO A
20 YEAR SENTENCE SOME 3 YEARS TO
SERVE WITH PROBATION.
3. THE SENTENCE UNDER THIS STATUTE
THEREFORE GRANTS COMPLETION OF A CLASS
A FELONY OFFENSE IN THE RANGE OF 7 TO
8 YEARS.
4. Code of ALABAMA 1975 SECTION 14-9-41(c)
PROVIDES THAT CLASS A FELONY CONVICTIONS,
AND SENTENCES THAT EXCEED 15 YEARS
ARE PROHIBITED FROM EARNING LET
GOOD TIME.

5. UNDER ALABAMA CONSTITUTION 1901 PETITIONER HAS A ISSUE TO WHICH IS DUE BY LAW.

THE STATE OF ALABAMA GRANTS 13A-5-9 SELECTIVE, UNEVENH...
 THE STATE OF ALABAMA 14-9-41, AND UNEVENH...
 WITH 14-9-41(c) BASED AND THE AMOUNT OF 2 1980 UP TO 10 YEARS, 15 YEARS. THE STATE USE 15-18-8(c) AND CLEU...
 CONVICTIONS WITH C... CLEAR MEANS TO END HIS O... SENTENCE.

AIS # 121865

6. PETITIONER AND ALL OTHERS UNDER THE ALLEGED MANDATORY STATUTES HAVE ENTITLEMENT BASED ON GROUND ONE WHERE LEGISLATIVE INTENT UNDER 14-9-41(c) GRANTS LIT GOOD TIME FOR ANY CONVICTION OTHER THAN LIFE.

7. PETITIONERS WHOSE SENTENCE COME UNDER CLASS C FELONY BASED ON THE ALLEGED 13A-5-9 FOR A TERM OF 25 YEARS, AND OR ANY TERM UNDER A CLASS B NONE VIOLENT. WE ARE SEGREGATED

AND DISCRIMINATED AGAINST UNDER NO JUSTIFIABLE CAUSE.

THE RELEASE OF SERIOUS OFFENDERS CAN'T BE STATED WHEN THE STATE OF ALABAMA GRANTS SPLIT SENTENCES TO HABITUAL FELONY OFFENDERS WITH A TOTAL TERM OF 15, AND 20 YEARS THAT COME UNDER CLASS A CRIMES.

RELIEF REQUESTED

1. THE COURT ISSUE SERVICE TO RESPONDENTS

2. THE COURT SET THIS CASE FOR A FULL HEARING.

3. THE AWARDED OF FULL PRODUCTION OF DOCUMENTS.

4. TO ANY AND ALL RELIEF THAT IS TRULY ENTITLED BY LAW.

PAGE 5

OF THE LEGISLATORS WHO DRAFTED THE BILL.

III. THE STATUTE IS UNCONSTITUTIONAL
WHERE IT HAS BEEN USED UNDER SEVERAL
DIFFERENT INTERPRETATIONS TO GRANT AND
DENY CIT GOOD TIME.

PETITIONER UNDER THE ORIGINAL
INTENT CODE OF ALABAMA 1975 SECTION
14-9-41(C) IS ENTITLED TO CIT GOOD TIME
WHERE I HAVE BEEN CONVICTED IN THE STATE
OF ALABAMA AND CONFINED, OTHER THAN LIFE.

RESPECTFULLY
James R. R. R.

SWORN AND SUBSCRIBED TO BEFORE
ME THIS 17th DAY OF JANUARY 2005

Alvie Beverly Reynolds

NOTARY

MY COMMISSION EXPIRES
FEBRUARY 6, 2006

Form C-10
 Page 1 of 2

Rev. 2/95

AFFIDAVIT OF SUBSTANTIAL HARDSHIP AND ORDER

13

IN THE 2ND CIRCUIT COURT OF HOUSTON, ALABAMA
 (Circuit, District, or Municipal) (Name of County or Municipality)

STYLE OF CASE: JAMES ROBINSON v. _____
 Plaintiff(s) Defendant(s)

TYPE OF PROCEEDING: CIVIL CHARGE(s) (if applicable): HABEAS CORPUS

- ☒ CIVIL CASE-- I, because of substantial hardship, am unable to pay the docket fee and service fees in this case. I request that payment of these fees be waived initially and taxed as costs at the conclusion of the case.
- ☐ CIVIL CASE-- (such as paternity, support, termination of parental rights, dependency) - I am financially unable to hire an attorney and I request that the court appoint one for me.
- ☐ CRIMINAL CASE-- I am financially unable to hire an attorney and request that the court appoint one for me.
- ☐ DELINQUENCY/NEED OF SUPERVISION-- I am financially unable to hire an attorney and request that the court appoint one for my child/me.

AFFIDAVIT

SECTION I.

1. IDENTIFICATION

Full name JAMES ROBINSON Date of birth 1-20-52
 Spouse's full name (if married) N/A
 Complete home address IN HOUSTON COUNTY JAIL
 Number of people living in household N/A
 Home telephone number N/A
 Occupation/Job N/A Length of employment N/A
 Driver's license number N/A *Social Security Number 420-72-9201
 Employer N/A Employer's telephone number _____
 Employer's address N/A

2. ASSISTANCE BENEFITS

Do you or anyone residing in your household receive benefits from any of the following sources? (If so, please check those which apply.)

☐ AFDC ☐ Food Stamps ☐ SSI ☐ Medicaid ☒ Other 0

3. INCOME/EXPENSE STATEMENT

Monthly Gross Income:

Monthly Gross Income	\$ <u>0</u>
Spouse's Monthly Gross Income (unless a marital offense)	\$ <u>0</u>
Other Earnings: Commissions, Bonuses, Interest Income, etc.	\$ <u>0</u>
Contributions from Other People Living in Household	\$ <u>0</u>
Unemployment/Workmen's Compensation,	\$ <u>0</u>
Social Security, Retirements, etc.	\$ <u>0</u>
Other Income (be specific) <u>None</u>	\$ <u>0</u>

TOTAL MONTHLY GROSS INCOME

\$ 0

Monthly Expenses:

A. Living Expenses	\$ <u>0</u>
Rent/Mortgage	\$ <u>0</u>
Total Utilities: Gas, Electricity, Water, etc.	\$ <u>0</u>
Food	\$ <u>0</u>
Clothing	\$ <u>0</u>
Health Care/Medical	\$ <u>0</u>
Insurance	\$ <u>0</u>
Car Payment(s)/Transportation Expenses	\$ <u>0</u>
Loan Payment(s)	\$ <u>0</u>

*OPTIONAL

Form C-10 Page 2 of 2 Rev. 2/95

AFFIDAVIT OF SUBSTANTIALITY, HARDSHIP AND ORDER

Monthly Expenses: (cont'd page 1)

Credit Card Payment(s)

Educational/Employment Expenses

Other Expenses (be specific) NONE

Sub-Total

B. Child Support Payment(s)/Alimony

Sub-Total

C. Exceptional Expenses

TOTAL MONTHLY EXPENSES (add subtotals from A & B monthly only)

Total Gross Monthly Income Less total monthly expenses:

DISPOSABLE MONTHLY INCOME

4. LIQUID ASSETS:

Cash on Hand/Bank (or otherwise available such as stocks, bonds, certificates of deposit)

Equity in Real Estate (value of property less what you owe)

Equity in Personal Property, etc. (such as the value of motor vehicles, stereo, VCR, furnishing, jewelry, tools, guns, less what you owe)

Other (be specific)

Do you own anything else of value? ☐ Yes ☒ No

(land, house, boat, TV, stereo, jewelry)

If so, describe NONE

TOTAL LIQUID ASSETS

5. Affidavit/Request

I swear or affirm that the answers are true and reflect my current financial status. I understand that a false statement or answer to any question in the affidavit may subject me to the penalties of perjury. I authorize the court or its authorized representative to obtain records of information pertaining to my financial status from any source in order to verify information provided by me. I further understand and acknowledge that, if the court appoints an attorney to represent me, the court may require me to pay all or part of the fees and expenses of my court-appointed counsel.

Sworn to and subscribed before me this

17th day of January, 2005Alice Beverly Reynolds
Judge/Clerk/NotaryJames Robinson
Affiant's SignatureJAMES ROBINSON
Print or Type NameMY COMMISSION EXPIRES
FEBRUARY 6, 2006

ORDER OF COURT

SECTION II.

IT IS THEREFORE, ORDERED, AND ADJUDGED BY THE COURT AS FOLLOWS:

☐ Affiant is not indigent and request is DENIED.☐ Affiant is partially indigent and able to contribute monetarily toward his/her defense; therefore defendant is ordered to pay \$ _____ toward the anticipated cost of appointed counsel. Said amount is to be paid to the clerk of court or as otherwise ordered and disbursed as follows:☐ Affiant is indigent and request is GRANTED.☐ The prepayment of docket fees is waived.

IT IS FURTHER ORDERED AND ADJUDGED that _____, is hereby appointed as counsel to represent affiant.

IT IS FURTHER ORDERED AND ADJUDGED that the court reserves the right and may order reimbursement of attorney's fees and expenses, approved by the court and paid to the appointed counsel, and costs of court.

Done this _____ day of _____, 19 ____.

Judge

1/20/05 *Veritas demand* *[Signature]* (1-28-05 N: Sept)

IN THE CIRCUIT COURT OF
HOUSTON COUNTY, ALABAMA

JAMES ROBINSON)

APPELLANT)

-VS-

STATE OF ALABAMA)

APPELLEE)

CASE NO. CC-98-1628.60

FILED

JAN 31 2005

Judy Byrd

WRITTEN NOTICE OF APPEAL

JUDY BYRD, CLERK
HOUSTON CO., AL

COMES NOW JAMES ROBINSON APPELLANT
AND FILE WRITTEN NOTICE OF APPEAL TO
THE ORDER ENTERED ON 1-20-05 BY HONORABLE
JUDGE JACKSON DENIAL OF HABEAS CORPUS.
APPELLANT SEEKS THE FOLLOWING ON APPEAL.

1. THE CLERK'S RECORD OF TRANSCRIPT.
2. THE CASE NO. ASSIGNED COMES UNDER CRIMINAL
CONVICTION. THE ISSUES RAISED IN HABEAS
APPLY TO STATUTES OF LAW.
3. THE COURT GRANT INDIGENCY ON APPEAL AS RULE
ON IN FILING.

RESPECTFULLY

James Robinson

JAMES ROBINSON
901 E. MAIN ST.
DETROIT, AL 36301

1-28-05

2/9/05

Free transcript order

Phon, pl

State of Alabama Unified Judicial System Form ARAP- 26 (front) 8/91	COURT OF CRIMINAL APPEALS DOCKETING STATEMENT	Criminal Appeal Number <div style="text-align: right;">188</div>
---	--	---

GENERAL INFORMATION:

☒ CIRCUIT COURT
 ☐ DISTRICT COURT
 ☐ JUVENILE COURT OF HOUSTON COUNTY

JAMES ROBINSON, Appellant

V. ☒ STATE OF ALABAMA
 ☐ MUNICIPALITY OF STATE OF ALABAMA

Case Number <u>CC-98-1628.60</u>	Date of Complaint or Indictment <u>1-20-05</u>	Date of Judgment/Sentence/Order <u>1-20-05</u>
Number of Days of Trial/Hearing Days	Date of Notice of Appeal Oral:	Written: <u>1-28-05</u>
Indigent Status Requested: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Indigent Status Granted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

B. REPRESENTATION:

Is Attorney Appointed or Retained?
 ☐ Appointed
 ☐ Retained.
 If no attorney, will appellant represent self?
☒ Yes
☐ No

Appellant's Attorney (Appellant if pro se) (Attach additional pages if necessary) <u>JAMES ROBINSON</u>	Telephone Number <u>NA</u>
Address <u>901 E. MAIN ST.</u>	City <u>DOHAAN</u> State <u>AL.</u> Zip Code <u>36301</u>

C. CODEFENDANTS: List each CODEFENDANT and the codefendant's case number.

Codefendant	Case Number
Codefendant	Case Number
Codefendant	Case Number

FILED
 FEB 10 2005

D. TYPE OF APPEAL: Please check the applicable block.

1 <input type="checkbox"/> State Conviction 2 <input type="checkbox"/> Post-Conviction Remedy 3 <input type="checkbox"/> Probation Revocation	4 <input type="checkbox"/> Pretrial Order 5 <input type="checkbox"/> Contempt Adjudication 6 <input type="checkbox"/> Municipal Conviction	7 <input type="checkbox"/> Juvenile Transfer Order 8 <input type="checkbox"/> Juvenile Delinquency 9 <input checked="" type="checkbox"/> Habeas Corpus Petition
---	--	---

Judy Byrd
JUDY BYRD, CLERK
 101 HOUSTON CO., AL

E. UNDERLYING CONVICTION/CHARGE: Regardless of the type of appeal checked in Section D, please check the box beside each offense category for which the appellant has been convicted or charged as it relates to this appeal. Also include the applicable section of the Code of Alabama for State convictions.

1 <input type="checkbox"/> Capital Offense - § 2 <input type="checkbox"/> Homicide - § 3 <input type="checkbox"/> Assault - § 4 <input type="checkbox"/> Kidnapping/Unlawful Imprisonment - § 5 <input type="checkbox"/> Drug Possession - §	6 <input type="checkbox"/> Trafficking in Drugs - § 7 <input checked="" type="checkbox"/> Theft - § <u>13A</u> 8 <input type="checkbox"/> Damage or Intrusion to Property - § 9 <input type="checkbox"/> Escape - § 10 <input type="checkbox"/> Weapons/Firearms - §	11 <input type="checkbox"/> Fraudulent Practices - § 12 <input type="checkbox"/> Offense Against Family - § 13 <input type="checkbox"/> Traffic - DUI - § 14 <input type="checkbox"/> Traffic - Other - § 15 <input type="checkbox"/> Miscellaneous (Specify): _____ §
--	--	--

F. DEATH PENALTY:

Does this appeal involve a case where the death penalty has been imposed?
☐ Yes
☒ No

G. TRANSCRIPT:

1. Will the record on appeal have a reporter's transcript?
☐ Yes
☒ No

2. If the answer to question "1" is "Yes," state the date the Reporter's Transcript Order was filed. _____ (Date)

3. If the answer to question "1" is "No":

(a) Will a stipulation of facts be filed with the circuit clerk?
☒ Yes
☐ No

(b) Will the parties stipulate that only questions of law are involved and will the trial court certify the questions?
☐ Yes
☐ No

NOTE: If the appeal is from the district or juvenile court and the answer to question "1" is "No," then a positive response is required for question 3(a) or 3(b).

State of Alabama Unified Judicial System Form ARAP-1C 8/91	REPORTER'S TRANSCRIPT ORDER -- CRIMINAL See Rules 10(c) and 11(b) of the Alabama Rules of Appellate Procedure (A.R. App.P.)	Criminal Appeal Number _____
--	---	---------------------------------

TO BE COMPLETED BY COUNSEL FOR THE APPELLANT OR BY THE APPELLANT IF NOT REPRESENTED AND FILED WITH THE WRITTEN NOTICE OF APPEAL OR FILED WITHIN 7 DAYS AFTER ORAL NOTICE OF APPEAL IS GIVEN.

☒ CIRCUIT COURT ☐ DISTRICT COURT ☐ JUVENILE COURT OF HOUSTON COUNTY
JAMES ROBINSON
V. ☒ STATE OF ALABAMA ☐ MUNICIPALITY OF STATE OF ALABAMA, Appellant

Case Number <u>CE-98-1628.60</u>	Date of Judgment/Sentence/Order <u>1-20-05</u>
Date of Notice of Appeal Oral: _____ Written: <u>1-28-05</u>	Indigent Status Granted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

PART 1. TO BE SIGNED IF THE APPEAL WILL NOT HAVE A COURT REPORTER'S TRANSCRIPT:

I CERTIFY THAT NO REPORTER'S TRANSCRIPT IS EXPECTED AND THAT THE RECORD ON APPEAL SHALL CONSIST OF THE CLERK'S RECORD ONLY. IF THE APPEAL IS FROM DISTRICT COURT OR JUVENILE COURT, I ALSO CERTIFY (1) THAT A STIPULATION OF FACTS WILL BE INCLUDED IN THE CLERK'S RECORD AND THAT THE APPELLANT WAIVES HIS RIGHT TO A JURY TRIAL IF SO ENTITLED; OR (2) THAT THE PARTIES HAVE STIPULATED THAT ONLY QUESTIONS OF LAW ARE INVOLVED AND THAT THE QUESTIONS WILL BE CERTIFIED BY THE JUVENILE/DISTRICT COURT FOR INCLUSION IN THE CLERK'S RECORD (SEE RULE 28(A)(1), ALABAMA RULES OF JUVENILE PROCEDURE, AND §12-12-72, CODE OF ALABAMA 1975).

James Robinson 2-6-05 JAMES ROBINSON
Signature Date Print or Type Name

PART 2. DESIGNATION OF PROCEEDINGS TO BE TRANSCRIBED. Request is hereby made to the court reporter(s) indicated below for a transcript of the following proceedings in the above referenced case (see Rule 10(c)(2), Alabama Rules of Appellate Procedure (A.R.App.P.)):

MARK PROCEEDINGS REQUESTED:

- A. ☐ TRIAL PROCEEDINGS - Although this designation will include the judgment and sentence proceedings, a transcript of the organization of the jury and arguments of counsel must be designated separately.
- B. ☐ ORGANIZATION OF THE JURY - This designation will include voir dire examination and challenges for cause. Note that in noncapital cases the voir dire of the jury will not be recorded unless the trial judge so directs. (See Rule 19.4, ARCP.)
- C. ☐ ARGUMENTS OF COUNSEL - Note that in noncapital cases the arguments of counsel will not be recorded unless the trial judge so directs. (See Rule 19.4, ARCP.)

COURT REPORTER(S)

IN ADDITION TO ANY PROCEEDINGS DESIGNATED ABOVE, SPECIAL REQUEST IS HEREBY MADE TO INCLUDE THE FOLLOWING PROCEEDINGS IN THE REPORTER'S TRANSCRIPT PORTION OF THE RECORD ON APPEAL. (ATTACH ADDITIONAL PAGES IF NECESSARY):

ADDITIONAL PROCEEDINGS REQUESTED

DATE

COURT REPORTER(S)

- D. _____
- E. _____
- F. _____
- G. _____

FILED
FEB 10 2005

Judy Byrd
JUDY BYRD, CLERK
HOUSTON CO., AL

IMPORTANT NOTICE: The court reporter who reported the proceedings for which a transcript is requested must be identified on this form to be effective. Additionally, it is important to note that the appellant may not be permitted to raise any issue on appeal relating to any proceedings in the case that are not specifically designated on this form for inclusion in the reporter's transcript. A general designation such as "all proceedings" is not sufficient. (See Rule 10(c)(2), A.R.App.P.)

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I CERTIFY THAT I HAVE DISTRIBUTED THIS FORM AS SET OUT BELOW. I ALSO CERTIFY: (1) THAT I HAVE MADE SATISFACTORY FINANCIAL ARRANGEMENTS WITH EACH COURT REPORTER LISTED ABOVE FOR PREPARING HIS OR HER PORTION OF THE REPORTER'S TRANSCRIPT HEREIN REQUESTED; OR (2) THAT THE APPELLANT PROCEEDED AT TRIAL AS AN INDIGENT AND THAT THAT STATUS HAS NOT BEEN REVOKED; OR (3) THAT THE APPELLANT HAS BEEN GIVEN PERMISSION TO PROCEED ON APPEAL IN FORMA PAUPERIS.

Signature _____ Date _____ Print or Type Name _____

DISTRIBUTION: Original filed with Clerk of Trial Court and copies mailed to: (1) Clerk of the Court of Criminal Appeals, (2) the District Attorney, (3) the Attorney General or the municipal prosecutor in lieu of the District Attorney and the Attorney General if the appeal is from a municipal conviction, and (4) to each Court Reporter who reported proceedings designated for inclusion in the reporter's transcript.

AP 14-3 Certificate of Completion and Transmittal of Record on Appeal by Trial Clerk

TOTAL # OF PAGES 19

**CERTIFICATE OF COMPLETION AND TRANSMITTAL
OF RECORD ON APPEAL BY TRIAL CLERK**

JAMES LENWOOD ROBINSON

Appellant

V.

State of Alabama
Appellee

TO: The Clerk of the Court of
Criminal Appeals of Alabama

Case No. CC-1998-1628.60

Date of Notice of Appeal 01-31-05

I certify that I have this date completed and transmitted herewith to the appellate court the record on appeal by assembling 19 pages of the Clerk's record, and 0 pages of the Court Reporter's transcript, and that one copy of each of the record on appeal has been served on the defendant and the Attorney General of the State of Alabama for the preparation of briefs.

I certify that a copy of this certificate has this date been served on counsel for each party to the appeal.

DATED this 10TH day of MARCH, 2005

Judith Byrd

Circuit Clerk

HOUSTON

County

COURT OF CRIMINAL APPEALS NO.

CR 05-0233

APPEAL TO ALABAMA COURT OF CRIMINAL APPEALS

FROM

CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

CIRCUIT COURT NO CC 98-1628

CIRCUIT JUDGE EDWARD JACKSON

Type of Conviction/ Order Appealed From: MOTION FOR MODIFICATION OF SENTENCE

Sentence Imposed: MOTION DENIED

Defendant Indigent: ☒ YES ☐ NO

JAMES LENWOOD ROBINSON

NAME OF APPELLANT

PRO-SE

#121865

(Appellant's Attorney)

(Telephone No.)

565 BIBB LANE

(Address)

BRENT, AL 35034

(City)

(State)

(Zip Code)

V.

STATE OF ALABAMA

NAME OF APPELLEE

(State represented by Attorney General)

NOTE: If municipal appeal, indicate above, and enter

name and address of municipal attorney below.

(For Court of Criminal Appeals Use Only)

CLERK'S INDEX

CASE ACTION SUMMARY	1
MOTION FOR SENTENCE MODIFCATION	2-3
9-22-05 ORDER: MOTION DENIED. RELIEF REQUESTED APPLIES ONLY TO LIFE AND LIFE WITHOUT PAROLE SENTENCES.	4
MOTION TO VACATE ORDER AND AMEND	5-6
MOTION TO AMEND AND SUPPLEMENT UNDER STATUTE'S 13A-5-9.1 AND CODE OF AL.	7-10
10-18-05 ORDER: MOTIONS DENIED.	11
WRITTEN NOTICE OF APPEAL	12
COURT OF CRIMINAL APPEALS DOCKETING STATEMENT	13-14
COURT REPORTER'S TRANSCRIPT ORDER	15
11-1-05 ORDER: FREE TRANSCRIPT ORDERED	16
CLERK'S NOTICE OF APPEAL	17
CERTIFICATE OF COMPLETION	18

ACRO369 ALABAMA JUDICIAL INFORMATION CENTER
CASE ACTION SUMMARY
CONTINUATION

CASE: CC 1998 001628.00
JUDGE ID: SEJ

STATE OF ALABAMA	VS	ROBINSON JAMES LENWOOD
DATE	ACTION, JUDGMENTS, CASE NOTES	
7-15-2005	Motion for Sentence Modification 13A-5-9.1 None Violent Amended Sentence Order (Deft)	
9/20/05	Motions denied. Relief granted only to certain life and life without parole sentences. (9-21-05 N: Deft)	
10-13-05	Motion to vacate order and amend. Motion to amend and supplement under Statute's 13A-5-9-1 and Code of Al. 1975 14-9-41(a)(e)	
10/18/05	Motions denied. <i>Jubon, Judge</i> (10/20/05 N: Deft)	
10-25-05	Notice of appeal, CCA docketing statement and CR transcript order.	
11/1/05	Free transcript ordered. <i>Jubon, Judge</i>	
11-2-05	Clerks notice of appeal, CCA docketing statement & CR transcript order.	

IN THE DISTRICT COURT OF
HOUSTON COUNTY, ALABAMA **FILED**
JUL 15 2005

STATE OF ALABAMA
RESPONDENT

Judy Byrd
JUDY BYRD, CLERK
HOUSTON CO., AL

VS
JAMES ROBINSON
PETITIONER

CASE NO. CC-98-1222
CC 98-1626 THRU 1628, 98-1486

MOTION FOR SENTENCE MODIFICATION
13A-5-9.1 NON-VIOLENT AMENDED
SENTENCE ORDER

DIRECTED
TO HONORABLE JUDGE JACKSON

COMES NOW PETITIONER AND PURSUANT
TO CODE OF ALABAMA 1975 SECTION 13A-5-9.1
ROBINSON PETITION THE HONORABLE JUDGE
STANLEY E. JACKSON TO GRANT THE ABOVE
STYLE MOTION.

THE ALABAMA SENTENCE COMMISSION,
AND HONORABLE GOVERNOR BOB FOLEY
UNDER LEGISLATIVE INTENT PROVIDE
UNDER 13A-5-9.1 FULL DISCRETION IN
HONORABLE JUDGE JURISDICTION TO
REVIEW SENTENCES IMPOSED BY 13A-5-9.

PAGE 2

ROBINSON'S CONVICTIONS ARE CLASS C FELONY OFFENSES AND STATE THE FOLLOWING FACTS.

1. EX PARTE KIRBY 2004 WL 1909345 GRANTS RECONSIDERATION OF SENTENCES.
2. ROBINSON HAS 19 YEARS SERVED UNDER THE 25 YEAR TERM FROM HENRY CIRCUIT COURT IN CC 88-026
3. THE CIRCUIT COURT OF HOUSTON COUNTY GRANTED FREDDIE THOMPSON RELEASE UNDER CC-91-573 THRU CC-91-576 FOUR LIFE TERMS RELEASE; SERVING 12 YEARS.
4. ROBINSON HAS EMPLOYMENT AND HOME PLAN, AND WITH ESTABLISH CHURCH WORSHIP.

WHEREFORE WITH ANY ORDERS ISSUED THE BALANCE OF RESTITUTION WILL BE PAID. WITH ROBINSON NEVER HAVING TO BE ARRESTED TO RETURN TO JAIL OR PRISON IT'S OVER.

RESPECTFULLY
James Robinson
JAMES ROBINSON
200 WALLACE DR.
RL30, AL. 36017
JULY 13, 2005

9/20/05

Motors denied. Belief reported apples only for certain
Life and Life with Paul. ~~Motor~~ ~~person~~

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

STATE OF ALABAMA

Plaintiff

VS.

CASE NO. CC-98-1628 J

JAMES ROBINSON,

Defendant

*****/

MOTION TO VAGATE ORDER AND AMEND

Comes now, James Robinson and pursuant to Code Of Alabama 1975 Section 13A-5-9.1 and shows unto Honorable Judge Edward Jackson the following which comes by actual Statute, and Legislative intent. :

1. Robinson comes under the provisions of Albama retroactive application of 13A-5-9, 13A-5-9.1 for none violent offender.
2. The plain language of Section 13A-5-9.1 provides that an inmate may ask the sentencing Judge or the Presiding Judge for relief from a previous sentenced imposed pursuant to the HFOA.

[A]. The plain language of a Statute, provides Legislative intent, and where the language is in its ordinary meaning, it must control. See RADNEY V. STATE, 840 So2d 190,196 (Ala. Crim. App. 2002) [3] It is well settled that words used in

FILED

OCT 13 2005

Judy Byrd
JUDY BYRD, CLERK
HOUSTON CO AL

Page 2.

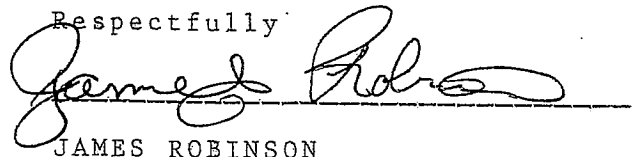
a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used a court is bound to interpret that language to mean exactly what it says.

Therefore under 13A-5-9.1 it is plain language that grants all none violent offenders who were sentence under HFOA, which is from a previous sentence imposed pursuant to the HFOA., resentencing.

3. The holding under EX Parte Kirby, it was stated; Although Section 13A-5-9.1 is not a model of clarity it does provide reasonably clear standards for it's execution and administration. [A]. The HFOA under 13A-5-9 provides sentences which under Class C felony offenders, with 15 years and a day are prohibited from earning CIT Good Time, therefore 13A-5-9.1 grants none violent offenders who have served 10, or 12 years a means to be resentence and be released. The HFOA under the 25 year sentence has no provisions for CIT Good Time, so based on the plain language of 13A-5-9.1 all who were sentenced under HFOA by 13A-5-9 was granted the right to apply to the sentencing Court for resentencing.

Robinson, prays the Honorable Judge will review the facts and statute of law. Where Robinson respect the Honorable Judge decision.

Respectfully

A handwritten signature in cursive script, appearing to read "James Robinson", written over a horizontal line.

JAMES ROBINSON

10/10/05

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

JAMES ROBINSON

DEFENDANT/PETITIONER

VS.

STATE OF ALABAMA

RESPONDENT/PLAINTIFF

CASE NO. CC-98-1628

*****/

MOTION TO AMEND AND SUPPLEMENT UNDER STATUTE'S
13A-5-9.1 AND CODE OF AL. 1975 14-9-41(a)(e)

Comes now James Robinson and petition the Honorable Judge Sidney Edward Jackson to make a ruling under the issues, and facts which governs Robinson's Constitutional rights by Alabama Statutes of law. Robinson under Code Of Alabama 1975 Section 13A-5-9.1 has entitlement based on the plain language, where Robinson's none violent application came before this Honorable Court. The Honorable Judge issued his ruling denying, where 13A-5-9.1 has been ruled by this Court deemed denied, where 13A-5-9.1 applies under 13A-5-9 HFOA, only to two Classes, Life Without, and Life.

Code Of Alabama 1975 Section 14-9-41(a) stands to say that Robinson conviction is entitled to earn CIT Good Time where plain language of the Statute clearly says, Shall,

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OCT 13 2005

Judy Byrd
JUDY BYRD, CLERK
HOUSTON CO., AL

Page 2

and, words which come from mandatory language, Shall hereafter be convicted of any offense....or sentence upon any conviction... other than for life..." Robinson's term comes under none violent, and under Alabama Constitution 1901, and the Constitution of these United States, Robinson's 1st, 4th, 5th, 6th, and 14th Amendments Rights must be protected by one of the Statutes protection. For the following individually.

1. Robinson has a conviction which comes under Class C Felony offense, and is for a total term of 25 years. Robinson has served a total of 20 years with all jail credit awarded, along with CC-86-825.

2. Code Of Alabama 1975 Section 13A-5-9 comes under the HFOA Act. Robinson's sentence comes under the enhancement by way of 13A-5-9. Where the statute was amended in 2000.

3. Robinson's term of sentence is not life and is govern by the provisions of 13A-5-9. Where the Legislative intent under 13A-5-9.1 was to grant none violent offenders the same equal protection by resentencing through the trial Court, Robinson's rights by way of the Constitution must be protected.

In that 13A-5-9.1 is for life, and life with-out. The Legislators then must by full plain language intended at all times for Robinson and others to have been long receiving the same

Page 3

under Code of Alabama 1975 Section 14-9-41(a) CIT Good Time, for the equal protection under Alabama Constitution. Where the Courts can provide resentencing for Class B Life and EOS by way of serving ten or Twelve years for a sentence imposed, but deny release by resentencing for a Class C felony with only 25 years, where Robinson has served 20 years on the sentence imposed.

4. Code of Alabama 1975 Section 14-9-41(e) provides that only those who have 15 years and less, and who are not Class A felony, these are the only ones who are entitled to earn CIT Good Time. The Constitutional rights under these United States are being violated where Robinson comes under three sections of Alabama law which must afford some equal protection, and the created liberty interest spoken by way of 14-9-41(a), which is plain language, and well understood.

Relief Requested Before Judge Jackson

1. The Honorable Judge to take review of the issues which comes before the Court under Alabama Statute, and issue an order stating specific facts to which Robinson is entitled.

2. The Court to enter a order granting CIT Good Time under 14-9-41(a) based on the plain language.


Page 4

3. The Honorable Judge Jackson grant what is written under Code Of Alabama 1975 Section 14-9-41(e), where the Court is granted full permission to state under the transcript of records as to whether the sentence imposed is prohibited from earning CIT Good Time, and or denial if based upon a conviction which causes serious physical injury, or loss of limbs, and etc.."

4. The Honorable Judge to review the Constitutional issues which comes before this Court and issue and opinion, and or full facts of how the Statutes would apply based on Statutes construction as a matter of law in Alabama.

5. To any and all relief that Robinson is entitled.

RESPECTFULLY SUBMITTED



JAMES ROBINSON

565 BIBB LANE

BRENT, ALABAMA 35034

10-9-05

10/18/05 Motions denied. Julian, Judge

IN THE CIRCUIT OF HOUSTON COUNTY
ALABAMA

FILED

OCT 25 2005

JAMES ROBINSON
APPELLANT

Judy Byrd
JUDY BYRD, CLERK
HOUSTON CO., AL

VS

CC-98-1628

STATE OF ALABAMA
APPELLEE

WRITTEN NOTICE OF APPEAL.

COMES NOW JAMES ROBINSON AND FILE THE
ABOVE STYLE MOTION FOR WRITTEN NOTICE OF APPEAL.
THE HONORABLE JUDGE EDWARD JACKSON TO GRANT
THE FOLLOWING, FOR GOOD CAUSE.

1. THE COURTS HAVE RULED THAT THE STATUTE
13A-5-9.1 GRANTS APPEAL OF THE DENIAL OF STATUTE'S
PROVISION.
2. ROBINSON HAS A CONSTITUTIONAL ISSUE WHICH
COME BY LEGISLATIVE INTENT UNDER PLAIN
LANGUAGE OF 13A-5-9.1
3. JUDGE JACKSON RULING IS BASED ON LIFE AND
LIFE WITHOUT WHICH GRANTS ONLY TWO CLASS OF
FELONY OFFENSES BUT THEREFORE BASED ON LEGISLATIVE
INTENT FOR NONE VIOLENT IS THERE A CONSTITUTIONAL
VIOLATION.

10-18-05

RESPECTFULLY
JAMES ROBINSON
565 BIBB LANE
HOUSTON, AL 36031

State of Alabama Unified Judicial System Form ARAP-26 (front) 8/91	COURT OF CRIMINAL APPEALS DOCKETING STATEMENT	Criminal Appeal Number
--	--	--------------------------------

A. GENERAL INFORMATION:

☒ CIRCUIT COURT
 ☐ DISTRICT COURT
 ☐ JUVENILE COURT OF HOUSTON COUNTY
JAMES ROBINSON, Appellant

V. ☒ STATE OF ALABAMA
 ☐ MUNICIPALITY OF STATE OF ALABAMA

Case Number <u>CC-98-1628</u>	Date of Complaint or Indictment <u>9-20-05</u>	Date of Judgment/Sentence/Order <u>9-20-05</u>
Number of Days of Trial/Hearing <u>0</u>	Date of Notice of Appeal Oral: _____ Written: <u>10-18-05</u>	
Indigent Status Requested: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Indigent Status Granted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

B. REPRESENTATION:

Is Attorney Appointed or Retained? ☐ Appointed ☐ Retained.
 If no attorney, will appellant represent self? ☒ Yes ☐ No

Appellant's Attorney (Appellant if pro se) (Attach additional pages if necessary)
JAMES ROBINSON

Address 565 B3BB LANE City BREW State AL Zip Code 35034

C. CODEFENDANTS: List each CODEFENDANT and the codefendant's case number.

Codefendant	Case Number
Codefendant	Case Number
Codefendant	Case Number

D. TYPE OF APPEAL: Please check the applicable block.

1 <input type="checkbox"/> State Conviction	4 <input type="checkbox"/> Pretrial Order	7 <input type="checkbox"/> Juvenile Transfer Order	10 <input type="checkbox"/> Other (Specify) <u>STATUTE</u>
2 <input checked="" type="checkbox"/> Post-Conviction Remedy	5 <input type="checkbox"/> Contempt Adjudication	8 <input type="checkbox"/> Juvenile Delinquency	
3 <input type="checkbox"/> Probation Revocation	6 <input type="checkbox"/> Municipal Conviction	9 <input type="checkbox"/> Habeas Corpus Petition	

E. UNDERLYING CONVICTION/CHARGE: Regardless of the type of appeal checked in Section D, please check the box beside each offense category for which the appellant has been convicted or charged as it relates to this appeal. Also include the applicable section of the Code of Alabama for State convictions.

1 <input type="checkbox"/> Capital Offense - § _____	6 <input type="checkbox"/> Trafficking in Drugs - § _____	11 <input checked="" type="checkbox"/> Fraudulent Practices - § _____
2 <input type="checkbox"/> Homicide - § _____	7 <input type="checkbox"/> Theft - § _____	12 <input type="checkbox"/> Offense Against Family - § _____
3 <input type="checkbox"/> Assault - § _____	8 <input type="checkbox"/> Damage or Intrusion to Property - § _____	13 <input type="checkbox"/> Traffic - DUI - § _____
4 <input type="checkbox"/> Kidnapping/Unlawful Imprisonment - § _____	9 <input type="checkbox"/> Escape - § _____	14 <input type="checkbox"/> Traffic - Other - § _____
5 <input type="checkbox"/> Drug Possession - § _____	10 <input type="checkbox"/> Weapons/Firearms - § _____	15 <input type="checkbox"/> Miscellaneous (Specify): _____ - § _____

F. DEATH PENALTY:

Does this appeal involve a case where the death penalty has been imposed? ☐ Yes ☐ No

G. TRANSCRIPT:

1. Will the record on appeal have a reporter's transcript? ☐ Yes ☐ No

2. If the answer to question "1" is "Yes," state the date the Reporter's Transcript Order was filed. _____ (Date)

3. If the answer to question "1" is "No":

(a) Will a stipulation of facts be filed with the circuit clerk? ☒ Yes ☐ No

(b) Will the parties stipulate that only questions of law are involved and will the trial court certify the questions? ☐ Yes ☐ No

NOTE: If the appeal is from the district or juvenile court and the answer to question "1" is "No," then a positive response is required for question 3(a) or 3(b).

Form ARAP- 26 (back) 8

COURT OF CRIMINAL APPEALS DOCKETING STATEMENT

H. POST-JUDGMENT MOTIONS: List all post-judgment motions by date of filing, type, and date of disposition (whether by trial court order or by the provisions of Rules 20.3 and 24.4 (ARCP)):

DATE OF FILING			TYPE OF POST-JUDGMENT MOTION	DATE OF DISPOSITION		
Month	Day	Year		Month	Day	Y.
7	15	05	MOTION 13A-5-9.1 ALABAMA STATUTE	9	20	05

I. NATURE OF THE CASE: Without argument, briefly summarize the facts of the case.

ROBINSON PURSUANT TO CODE OF ALABAMA 1975 SECTION 13A-5-9 COMES UNDER HFOA ACT. ROBINSON IS A NON-VIOLENT OFFENDER CODE OF ALABAMA 1975 SECTION 13A-5-9.1 CLASS C FELONY OFFENSE.

ROBINSON AVERES THAT UNDER CLEAR PLAIN LANGUAGE OF 13A-5-9.1 LEGISLATIVE INTENT DID NOT CREATE DISCRIMINATION, AND THAT CLASS C FELONY OFFENDERS UNDER 13A-5-9 ARE ENTITLED TO RELIEF FOR RESENTENCING THE UNCONSTITUTIONAL ASPECT OF THE STATUTE WHERE 14-9-41(C) IS NOT ENFORCED AS WRITTEN.

J. ISSUE(S) ON APPEAL: Briefly state the anticipated issues that will be presented on appeal. (Attach additional pages if necessary.)

1. THE 1ST, 4TH, 6TH, AND 14TH AMENDMENT RIGHTS CREATED UNDER LEGISLATIVE INTENT.
2. ISSUE OF FIRST IMPRESSION UNDER LEGISLATIVE INTENT WHERE 25 YEAR NON-VIOLENT OFFENDERS MUST BE GIVEN EITHER 14-9-41(C) AND OR 13A-5-9.1

K. SIGNATURE:

10-18-05
Date

James Robinson
Signature of Attorney/Party Filing this Form

State of Alabama
Unified Judicial System
Form ARAP-1C

8/51

REPORTER'S TRANSCRIPT ORDER - CRIMINAL

See Rules 10(c) and 11(b) of the
Alabama Rules of Appellate Procedure (A.R. App.P.)

Criminal Appeal Number

TO BE COMPLETED BY COUNSEL FOR THE APPELLANT OR BY THE APPELLANT IF NOT REPRESENTED AND FILED WITH THE WRITTEN NOTICE
APPEAL OR FILED WITHIN 7 DAYS AFTER ORAL NOTICE OF APPEAL IS GIVEN.

☒ CIRCUIT COURT ☐ DISTRICT COURT ☐ JUVENILE COURT OF

JAMES ROBINSON HOUSTON

V. ☒ STATE OF ALABAMA ☐ MUNICIPALITY OF

STATE OF ALABAMA

COU

Appella

Case Number

CC-98-1628

Date of Judgment/Sentence/Order

9-20-05

Date of Notice of Appeal

Oral:

Written: 10-18-05

Indigent Status Granted:

☒ Yes ☐ No

PART 1. TO BE SIGNED IF THE APPEAL WILL NOT HAVE A COURT REPORTER'S TRANSCRIPT:

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James Robinson

10-18-05

JAMES ROBINSON

Print or Type Name

PART 2. DESIGNATION OF PROCEEDINGS TO BE TRANSCRIBED. Request is hereby made to the court reporter(s) indicated below for a transcript of the following proceedings in the above referenced case (see Rule 10(c)(2), Alabama Rules of Appellate Procedure (A.R. App.P.)).

MARK PROCEEDINGS REQUESTED:

A. ☐ TRIAL PROCEEDINGS. Although this designation will include the judgment and sentence proceedings, a transcript of the organization of the jury and arguments of counsel must be designated separately.

COURT REPORTER(S)

B. ☐ ORGANIZATION OF THE JURY. This designation will include voir dire examination and challenges for cause. Note that in noncapital cases the voir dire of the jury will not be recorded unless the trial judge so directs. (See Rule 15.4, A.R. App.P.)

C. ☐ ARGUMENTS OF COUNSEL. Note that in noncapital cases the arguments of counsel will not be recorded unless the trial judge so directs. (See Rule 15.4, A.R. App.P.)

IN ADDITION TO ANY PROCEEDINGS DESIGNATED ABOVE, SPECIAL REQUEST IS HEREBY MADE TO INCLUDE THE FOLLOWING PROCEEDINGS IN THE REPORTER'S TRANSCRIPT PORTION OF THE RECORD ON APPEAL (ATTACH ADDITIONAL PAGES IF NECESSARY):

ADDITIONAL PROCEEDINGS REQUESTED

DATE

COURT REPORTER(S)

D.

E.

F.

G.

IMPORTANT NOTICE: The court reporter who reported the proceedings for which a transcript is requested must be identified on this form to be effective. Additionally, it is important to note that the appellant may not be permitted to raise any issue on appeal relating to any proceedings in the case that are not specifically designated on this form for inclusion in the reporter's transcript. A general designation such as "all proceedings" is not sufficient. (See Rule 10(c)(2), A.R. App.P.)

PART 3. MUST BE SIGNED IF THE APPEAL WILL HAVE A COURT REPORTER'S TRANSCRIPT:

I CERTIFY THAT I HAVE DISTRIBUTED THIS FORM AS SET OUT BELOW. I ALSO CERTIFY (1) THAT I HAVE MADE SATISFACTORY FINANCIAL ARRANGEMENTS WITH EACH COURT REPORTER LISTED ABOVE FOR PREPARING HIS OR HER PORTION OF THE REPORTER'S TRANSCRIPT HEREIN REQUESTED; OR (2) THAT THE APPELLANT HAS BEEN GIVEN PERMISSION TO PROCEED ON APPEAL IN FORMA PAUPERIS; OR (3) THAT THE APPELLANT HAS BEEN GIVEN PERMISSION TO PROCEED ON APPEAL IN FORMA PAUPERIS.

DISTRIBUTION: Original filed with Clerk of Trial Court and one copy furnished to: (1) Clerk of the Court of Criminal Appeals, (2) the District Attorney, (3) the Attorney General or the municipal prosecutor in lieu of the District Attorney and the municipal conviction, and (4) to each Court Reporter who reported the proceedings.

11/1/05 Free transcript submitted. Accounting statement signed [Signature]

REV. 4/1/97

**NOTICE OF APPEAL TO THE ALABAMA COURT OF CRIMINAL APPEALS
BY THE TRIAL COURT CLERK**

STATE OF ALABAMA

V.

JAMES LENWOOD ROBINSON

APPELLANT'S NAME
(as it appears on the Indictment)

APPELLEE

☒ CIRCUIT ☐ DISTRICT ☐ JUVENILE COURT OF HOUSTON COUNTY
CIRCUIT/DISTRICT/JUVENILE JUDGE: SIDNEY EDWARD JACKSON

DATE OF NOTICE OF APPEAL: 10-25-2005

(NOTE: If the appellant is incarcerated and files notice of appeal, this date should be the date on the certificate of service, or if there was no certificate of service, use the postmark date on the envelope.)

INDIGENCY STATUS:

Granted Indigency Status at Trial Court
Appointed Trial Counsel Permitted to Withdraw on Appeal:
Indigent Status Revoked on Appeal:

☒ Yes ☐ No
☒ Yes ☐ No
☐ Yes ☒ No

DEATH PENALTY:

Does the appeal involve a case where the death penalty has been imposed?

☐ Yes ☒ No

TYPE OF APPEAL: (Please check the appropriate block)

☐ State Conviction
☐ Rule 32 Petition
☐ Probation Revocation
☐ Mandamus Petition

☐ Pretrial Appeal by State
☐ Contempt Adjudication
☐ Municipal Conviction
☐ Writ of Certiorari

☐ Juvenile Transfer Order
☐ Juvenile Delinquency
☐ Habeas Corpus Petition
☒ Other (Specify) MOTION MODIFY SENTENCE

IF THIS APPEAL IS FROM AN ORDER DENYING A PETITION (I.E. RULE 32 PETITION, WRIT OF HABEAS CORPUS, ETC.) OR FROM ANY OTHER ORDER ISSUED BY THE TRIAL JUDGE, COMPLETE THE FOLLOWING:

TRIAL COURT CASE NO.: CC1998-1628DATE ORDER WAS ENTERED: 09-20-05PETITION: ☐ Dismissed ☒ Denied ☐ Granted

IF THIS IS AN APPEAL FROM A CONVICTION, COMPLETE THE FOLLOWING:

DATE OF CONVICTION: _____ DATE OF SENTENCE: _____

YOUTHFUL OFFENDER STATUS:

Requested: ☐ Yes ☐ No Granted: ☐ Yes ☐ No

LIST EACH CONVICTION BELOW: (attach additional page if necessary)

1.	Trial Court Case No. _____	CONVICTION: _____
	Sentence: _____	
2.	Trial Court Case No. _____	CONVICTION: _____
	Sentence: _____	
3.	Trial Court Case No. _____	CONVICTION: _____
	Sentence: _____	

POST-JUDGMENT MOTIONS FILED: (complete as appropriate)

	Date Filed	Date Denied	Continued by Agreement To (Date)
<input type="checkbox"/> Motion for New Trial	_____	_____	_____
<input type="checkbox"/> Motion for Judgment of Acquittal	_____	_____	_____
<input type="checkbox"/> Motion to Withdraw Guilty Plea	_____	_____	_____
<input type="checkbox"/> Motion in Arrest of Judgment	_____	_____	_____
<input checked="" type="checkbox"/> Other MOTION TO AMEND/	10-13-05	10-18-05	_____

COURT REPORTER (S) _____

NONE

ADDRESS: _____

APPELLEE COUNSEL: _____

PRO-SE

ADDRESS: _____

APPELLANT: (IF PRO SE) _____

AIS# 121865 D-3 17B

ADDRESS: _____

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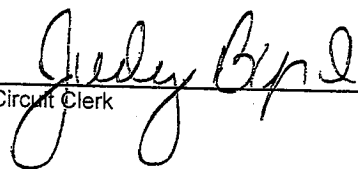
APPELLEE (IF CITY APPEAL) ...

BRENT, AL. 35034

ADDRESS: _____

I certify that the information provided above is accurate and to the best of my knowledge and I have served a copy of this Notice of Appeal on all parties to this action on this 2ND day of NOVEMBER, 2005

Judy Byrd
CIRCUIT COURT CLERK

State of Alabama Unified Judicial System From ARAP - 14 Rev. 11 / 91	CERTIFICATE OF COMPLETION AND TRANSMITTAL OF RECORD ON APPEAL BY TRIAL CLERK	Appellate Case Number
TO: THE CLERK OF THE COURT OF CRIMINAL APPEALS OF ALABAMA		DATE OF NOTICE OF APPEAL: 10-25-05
APPELLANT JAMES LENWOOD ROBINSON		
v. STATE OF ALABAMA		
<p>I certify that I have this date completed and transmitted herewith to the appellate court the record on appeal by assembling in (a single volume of <u>18</u> pages) (<u> </u> volumes of 200 pages each and one volume of <u> </u> pages) the clerk's record and the reporter's transcript and that one copy each of the record on appeal has been served on the defendant and the Attorney General of the State of Alabama for the preparation of brief.</p>		
<p>I certify that a copy of this certificate has this date been served on counsel for each party to the appeal.</p>		
<p>DATED this <u>17TH</u> day of <u>NOVEMBER</u>, <u>2005</u>.</p>		
<div style="text-align: right;">  Circuit Clerk </div>		

ATTORNEY GENERAL COPY

CR-05-0233

JAMES LENDWOOD ROBINSON

APPELLANT

VS.

STATE OF ALABAMA

APPELLEE

FILED

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CLERK
ALA COURT CRIMINAL APPEALS

ON APPEAL FROM THE CIRCUIT COURT OF HOUSTON

COUNTY, ALABAMA

CC98-1628

BRIEF AND ARGUMENT OF JAMES ROBINSON

JAMES L. ROBINSON PRO
SE INMATE
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BRENT, ALABAMA 35034

TABLE OF CONTENTS

	Page
TABLE OF CONTENTS.	i.
TABLE OF CASES	ii.
STATEMENT OF CASE	1.-9.
STATEMENT OF FACTS PRESENTED	10.
ISSUES PRESENTED FOR REVIEW	12.-16.
ARGUMENT ISSUE II.	17.-22.
ARGUMENT ISSUE III.	23.-25.
ARGUMENT ISSUE IV.	26.-29.
CONCLUSION	30.
CERTIFICATE OF SERVICE	31.

TABLE OF CASES

	Pages
<u>BROOKS V. STATE</u> , 622 SO.2d 447	
(Ala.Cr.App.1993).....	16,24.
<u>EX PARTE COBB</u> , 703 SO.2d 871	
(Ala.1996).....	18,27,28.
<u>GHOLSTON V.STATE</u> , 620 SO.2d 719	
(Ala.1993).....	24.
<u>HILSABECK V. STATE</u> , 477 So.2d 465	
(Ala.1985).....	19.
<u>JONES V. WHITE</u> , 992 F.2d 1548	
(11th Cir.1993).....	24.
<u>KIRBY V. STATE</u> , 2004 WL 1909345	
(Ala. 2004).....	13.
<u>LIDGE V. STATE</u> , 419 SO.2d 610	
(Ala. Crim. App. 1982).....	14.
<u>OPINION OF THE JUSTICES</u> , 410 SO.2d 60,61.....	16. 24.
<u>POWERS V. STATE</u> , 546 SO.2d 1000	
(Ala.Cr.App. 1987).....	29.
<u>RADNEY V. STATE</u> , 840 SO.2d 190	
(Ala.Crim.App. 2002).....	14,17,27.

Code Of Alabama 1975 Section 13A-5-9
 Code Of Alabama 1975 Section 13A-5-9.1
 Code Of Alabama 1975 Section 14-9-41(a)
 Code Of Alabama 1975 Section 14-9-41(e)

STATEMENT OF CASE

James Robinson was convicted in the Circuit Court of Houston County, Alabama for Class C Felony Offenses. Robinson was sentenced under Code Of Alabama Statute 13A-5-9, which is commonly known as the Habitual Felony Offender Act. 13A-5-9 under the Statute grants the trial Court jurisdiction to enhance a felony conviction. 13A-5-9 says : "In all cases when it is [S]hown..." The Statute requirements clearly provides that it must be shown before the trial Court before a sentence can be enhanced. Other's say when it is admitted to by Defendant that He/She has priors, then the HFOA is invoked before the Court for enhancement purposes.

The State Of Alabama has had mass confusion about 13A-5-9 since it's being placed in Alabama's law.

Robinson and all others who have been sentenced under 13A-5-9 with Class C felony offenses, we have been discriminated against, and placed under harsher punishment by denial of having 13A-5-9.1 in our cases. 13A-5-9 which was used to enhance all convictions, and has mandatory language, Robinson then has entitlement under mandatory language to receive resentencing.

13A-5-9(a) says "In all cases when it is [S]hown.... he or she must be punished as follows." 13A-5-9(c)(1) states the very same under mandatory language. Therefore Robinson's enhancement and all others were done under mandatory provisions by the Statute's language. Robinson prior to ACT 2001-977, and ACT 2000-759 Robinson's sentence and conviction was under 13A-5-9 just like Kirby's sentence and conviction. There's nothing in the language of any Amendment which says don't grant Class C felony offenders resentencing. There's nothing in the body of 13A-5-9(a) which separates enhancements under the HFOA ACT. In fact the original ACT was challenged, and it ruled to be constitutional in all aspects. Robinson's Motion which was filed before the Circuit Court of Houston County, Alabama [Tr. 2-3] Robinson clearly made his request under the Statute's provisions of 13A-5-9.1. In Robinson's Motion it was shown that Circuit Court of Houston County, Alabama granted Freddie Thompson release from prison, where Thompson had served 12 years for Life under Class B felony for sales of drugs. Robinson's Motion showed that Robinson has served 19 years on the 25 year sentence and convictions with all jail credit from CC-88-026.

The simple facts of Robinson's case are; that Robinson by all constitutional rights have entitlement to receive the same which all are receiving under Class "B" and Class "A". Alabama Statute had no clause when it was written to separate convictions by class separation. 13A-5-9 was applied to all with prior convictions in the State of Alabama. Honorable Judge Jackson's denial is based on one ground only. [Tr.-4] **"Motion denied.... only to grant Life and Life Without Parole.."** Robinson and all others who are denied based on there being no relief for Class C felony offenders violates Robinson's and all others constitutional rights. Robinson and all others whether Life and or Life Without come under clear mandatory language spoken by the same Statute of law 13A-5-9. Where it's clear under all convictions when it is shown, then the Court **must** sentence under mandatory provisions.

Robinson's claims are true based on the Constitution of these United States, and Alabama Constitution 1901. There's no room to grant Class B, and Class A resentencing under the same ACT which gave these two classes grounds for resentencing, but there's nothing no form of relief given to Robinson and all others who have Class C felonies, and sentenced under mandatory

requirements. Alabama by all rulings provide that 13A-5-9 is non-discretionary. In all cases when it is shown, then it becomes a must. The must then has to be turn around and given the exact same meaning which were done for all under the HFOA ACT. Robinson's Motion filed to vacate the order. [Tr.-5-6], Robinson showed clear facts before the Court. Paragraph 2. of Robinson's Motion says : "The plain language of section 13A-5-9.1 provides that an inmate may ask the sentencing Judge or the Presiding Judge for relief from a previous sentenced imposed pursuant to the HFOA." Robinson's Motion specified by specifics that when the language of the Statute is clear then it is mandatory that it must mean exactly what it says. Robinson has proved that all who were victims of 13A-5-9 are entitled to resentencing by proper Motion being filed. Robinson followed the provisions, but the denial is based only where Robinson's sentence is not a Class B offense. Robinson avers that where's uneven application then there's selective acts done with full evil intent. All who come under 13A-5-9 have entitlement to petition the Court. There's relief to which the trial Court has where all comes under discretionary rulings based on Statute's words spoken.

Robinson's sentence for 25 years under Class "C" once it is enhanced by 13A-5-9. In fact it was held in Robinson's case under CC-88-125, that Robinson's Class C, became a Class A for fines of \$20,000.00. Robinson therefore based on all aspects has clear entitlement once it was stated in the very Statute that resentencing is granted for enhanced sentences pursuant to 13A-5-9. It is clear that Executive Order Number 62 created resentencing of none violent offenders. It is further clear that in order to receive resentencing a person had to have been sentenced under 13A-5-9. Robinson's 25 year sentence came from 13A-5-9 which the State of Alabama has said in all written Opinions from the Court of Criminal Appeals, and Attorney General. Where it has been said in Robinson's case from Houston County, Alabama for Burglary 3rd degree. The reason Robinson's fine was \$20,000.00 is because Robinson's priors placed Robinson in Class A conviction punishment.

Robinson shows that based on the very language coming from the Court of Criminal Appeals in CR-04-0188 that Robinson's punishment comes under Class "A" felony offender. Robinson under 14-9-41(e) then says that the State of Alabama has a

very serious problem with out-right discrimination with the use of ACT 80-446 CIT Good Time. Code Of Alabama Section 14-9-41(e) says no Class A felony offender can receive CIT Good Time. Robinson has full knowledge that thousand upon thousand of inmates have 3 priors and came under Class "C." and received 15 years for the conviction. State Of Alabama says that Robinson's Class C felony becomes a Class A. Therefore all inmates who are Habitual Offenders with 3 priors and have 15 years they are Class A offenders and are prohibited from earning CIT Good Time by the rulings and Attorney General's language used against Robinson to deny actual refund owed to Robinson for a \$20,000.00 fine under 13A-5-11.

Robinson provided before Judge Jackson for a written order to issue. Motion To Amend And Supplement.. [Tr.-7-10]. Robinson's claim that 14-9-41(a) then must apply to Robinson's sentence and conviction, where Robinson don't have Life. 14-9-41(a) has plain language."Each Prisoner who [S]hall hereafter be convicted for any offense...and upon any conviction..other than for LIFE..may be entitled to earn a deduction from his sentence as follows." Robinson's claims were never refuted,

by the merits, nor any written facts by the Judge at all. Robinson under 14-9-41(a) has full entitlement to receive CIT Good Time then for his sentence, where 14-9-41(e) awards CIT Good Time to Class A felony offenders by enhancements under the HFOA ACT. Robinson then shows that ACT 80-446 provides that no **HFOA Offender** could receive CIT Good Time. These are serious Constitutional violations which have been done. first Robinson can't get the benefits under 13A-5-9 which placed Robinson in the range of no CIT Good Time based on 14-9-41(e). Robinson then is serving **Flat Time; Day for Day**, even on parole. Robinson's constitutional rights are being violated based on 13A-5-9 for resentencing by interpretaion of 13A-5-9.1 where it is supposed to be for a specified Class; Class A and Class B none violent offenders. Robinson case is before this Court from the actual Statutes which must grant Robinson some form of relief based on 13A-5-9 which enhanced Robinson's sentence. Robinson in relief of his Motion; [Tr.-9-10.] Robinson is entitled to have plain language of 14-9-41(a) as well understood language says, and or to have the resentencing which comes under 13A-5-9 the enhancement Statute where both Class B; and Class A

are given resentencing by 13A-5-9.1. Robinson's claims are directly govern by Alabama's Statute like Kirby, who was granted full relief based on the Statute's requirements.

Robinson is housed at Bibb's Correction Facility, where the original capacity was 900. Bibb's population exceeds 1,800 inmates. Each and every State Prison are massly over capacity in Alabama based on over crowded conditions. Robinson and all others who are housed are done so in violation of Alabama Constitution, and the Constitution of these United States. 13A-5-9.1 was amended for the sole purpose to grant some inmates actual release from Alabama priosn who had Life, and Life With Out. However each and every inmate who had those type sentences were sentenced under Mandatory requirements from the exact same Statute which Robinson received his 25 Year sentence from. If not for 13A-5-9 Robinson's maximum sentence would have been 10 years and Robinson long gone from Alabama Prison.

The appeal now comes for this Court to decide crucial and specific issues under the Constitution, and to which are all true facts that some Court has to issue a specific order to as a matter of law in the State Of Alabama.

Robinson's Constitutional Right under the 1st, 4th, 6th, 8th, and 14th Amendments come before this Court. Alabama Constitution 1901 Article IV. Section 61, and Section 85. There are issues which Robinson has based on Alabama rulings which makes it plain there's relief that must be granted for all in the State of Alabama. There are facts which no Judge can dispute about these issues. Robinson's enhancement in CC-88-125 were never placed before the trial Court at sentencing, however the rulings stood that based on the State's theory that they had intent to produce. They have more to be favored by the Constitution than Robinson. Then Robinson points to the Statute which says in all cases when it is shown. The State of Alabama didn't show the evry 1st, they only showed intent. When there was no completion of the actual intent, 13A-5-9 died in Circuit Court. However again now Robinson is before the Court and this time all Constitutional aspects are evenly distrubted. 14-9-41(e) gives inmates with 3 priors with Class C, but enhanced by 13A-5-9 for Class A CIT Good Time. The Department Of Corrections violates Constitutional Rights of every inmate under ACT 80-446. Robinson's case comes for ruling now.

Statement Of Facts Presented

Robinson filed a timely Motion pursuant to 13A-5-9.1 [Tr.-2-3]. The Motion was filed July 15, 2005. Honorable judge Jackson denied the Motion September 20, 2005 [Tr-4]. Robinson filed a timely Motion for the Court to Vacate the order. [Tr-5-6] There was a full Motion filed by Robinson setting forth actual Statute's violation, and rights which each Statute based on law affords Robinson some form of relief. [Tr.-7-10] The Honorable Judge Jackson's orders were issued. [Tr.-11-] Motion denied. There's nothing by written orders from Judge Jackson, nor any response by the State to refute Robinson's claims.

Robinson's was before the Court with none violent cases, and there because Robinson's sentence enhancement came by 13A-5-9 under the HFOA ACT. The only reason robinson says that any inmate can receive any benefit he/she has to have been convicted under 13A-5-9, plain and simple. Alabama Legislative Intent was not ruled on by Judge Jackson at all under 13A-5-9.1 Nor has the State gave any answer.

This appeal comes before this Court for written facts.

ISSUES PRESENTED FOR REVIEW

ISSUE I. WHETHER 13A-5-9 ENHANCEMENT GRANTS SEPERATION
FOR CLASS DISCRIMINATION TO BE APPLIED
"NO"

ISSUE II. WHETHER 14-9-41(a) and 14-9-41(e) Create
A RIGHT FOR ROBINSON TO RECEIVE CIT GOOD TIME
"YES"

ISSUE III. WHETHER 13A-5-9.1 BY STATUTORY LANGUAGE EFFECTS
A CLASS UNDER ALABAMA STATUTE HFOA ACT 13A-5-9 FOR ALL

IV. WHETHER 14-9-41(a) BY STATUTORY LANGUAGE EFFECTS
A CLASS OF ALABAMA PRISONERS WHERE MANDATORY LANGUAGE WAS
USED TO PROVIDE A SPECIFIC PURPOSE

ISSUE I. WHETHER 13A-5-9 ENHANCEMENTS GRANTS SEPERATION
FOR CLASS DISCRIMINATION TO BE APPLIED
"NO"

Robinson's sentence was alleged to have been enhanced by Code Of Alabama 1975 Section 13A-5-9. Robinson appeared in Court with Class C felony offenses. The State for those Class C felony offenses recommended Robinson's sentence be enhanced under 13A-5-9. The Court therefore imposed under mandatory provisions nothing under 15 Years for Robinson, and imposed a term of 25 years imprisonment for the conviction.

Robinson filed to the trial Court before Honorable Judge Jackson a time Motion based under 13A-5-9.1 which grants None-Violent Offenders who were enhanced by 13A-5-9 a means to be resentenced by the trial Court. Robinson filed his Motion. [Tr.-2-3] The Honorable Judge Jackson denied the Motion [Tr-4] Robinson filed a timely Motion to Vacate Order And Amend [Tr-5-6], and Robinson filed a timely Motion To Amend And Supplement Under Statute's 13A-5-9.1 and Code Of Alabama 1975 14-9-41(a)(e) [Tr.-7-10] Motion denied [Tr.-11-] Robinson appealed. These are Statutes requirements, and Constitutional

Issues which grants Robinson relief as a matter of Alabama law. The full facts come by law.

The Court's holding under KIRBY V. STATE, 2004 WL 1909345 (Ala.) The Court held; *3 "The plain language of Sec. 13A-5-9.1 does not require that an inmate have a case pending before the Circuit Court in order for the inmate to file a motion for reconsideration of his or her sentence, nor does it require that the inmate invoke a particular rule of criminal procedure. Rather, Sec. 13A-5-9.1 provides that an inmate may ask the sentencing Judge or the presiding Judge for relief from a previous sentence imposed pursuant to the HFOA and provides that the court is to consider the evaluation of the DOC in considering the inmate's motion." The Court went on to hold; " Section 13A-5-9.1 clearly confers jurisdiction on the sentencing Judge or the Presiding Judge by giving that Judge the power to apply the provisions of section 13A-5-9 retroactively to **nonviolent convicted offender[s]**" The real question which must be address is the root where the resentencing comes from, which is Section 13A-5-9. Did 13A-5-9 make discrimination by Classes under felonies in the State Of Alabama ? "NO." 13A-5-9 says "In all cases when it is shown." Robinson's facts goes to the very Statute.

13A-5-9 was drafted to deter repeat offenders. See LIDGE V. STATE, 419 SO.2d 610,614 (Ala. Crim. App. 1982) All felony convictions, even those that occurred before the HFOA became effective and regardless of their origin, are to be considered in determining the correct sentence under the HFOA; LIDGE; at 614. Therefore 13A-5-9 can't grant class separation. The very plain language of 13A-5-9 must be used as written. Where you have a Statute which says, clear, precise, well understood words it **must** be applied as written. RADNEY V. STATE, 840 SO.2d 190,196 (Ala. Crim. App. 2002) It is well settled that words used in a Statute must be given their natural plain, ordinary, and commonly understood meaning. 13A-5-9 made it clear that all convictions will be enhanced where there are priors that can be used. 13A-5-9.1 was amended for those who were sentenced under 13A-5-9.1; therefore did the Legislative Intent provide that there were only two classes who were convicted under 13A-5-9 would receive resentencing ? **"NO"** The Court's holding under KIRBY, is that the Judge has to consider the same factors which

he/she considered in the original sentence imposed under use of 13A-5-9 at resentencing. The Judge's ruling saying that 13A-5-9.1 applies to only two classes violates Alabama Constitution 1901 Article IV. Section 61 The original purpose of 13A-5-9 was for all who had prior convictions. The Statute 13A-5-9 didn't provide any means for Class C to be exempt, if so then Robinson is clearly entitled to resentencing as a matter of law where the maximum for a Class C felony is only 10 years. However 13A-5-9 being applied the 25 years under 13A-5-9 HFOA grants Robinson the same which came under the original intent of the HFOA ACT.13A-5-9.

Robinson's claims which came before Judge Jackson are true and correct. 13A-5-9.1 can't be just for two classes of convictions only where the very root for 13A-5-9.1 comes from 13A-5-9, which applies to all inmates who have been convicted under the enhancements by HFOA.

The State of Alabama prisons are triple capacity and the reason being no form of relief exist for the full make-up of Class "C" felony offenders who are still serving a sentence coming under 13A-5-9, and who under 14-9-41(e) receive no CIT

Good Time. 13A-5-9 did not provide any means to discriminate, nor has there been any means to award class separation for this Class, and that Class, but deny this Class.

Robinson's finally shows the Honorable Judges just why 13A-5-9.1 must apply; for all affected by 13A-5-9. See OPINION OF THE JUSTICES, 410 SO.2d 60,61. The Court held : "Generally, any law with respect to the punishment to be given must operate equally on every citizen or inhabitant of the State, and the Statute is void as a denial of equal protection of the laws which prescribes a different punishment or different degrees of punishment for the same acts committed under the same circumstances by persons in like situations." There can be no separation, nor any form of discrimination under Alabama's Statute of law, where there was none done with use of 13A-5-9 where all received enhancement; then there can be none applied for resentencing by 13A-5-9.1 for Robinson's rights which are a Constitutional guarantee under these United States and the State of Alabama.

Therefore Judge Jackson's order denying reconsideration violates Robinson's constitutional rights as spoken.

ISSUE II. WHETHER 14-9-41(a) and 14-9-41(e) Create
 A Right For Robinson To Receive CIT GOOD TIME
 'yes.'

Robinson comes under Code Of Alabama 1975 Section 14-9-41(a). Robinson's sentence is not Life. 14-9-41(a) has precise plain language. Which says in part : "Each prisoner hereafter convicted for any offense,... and upon any conviction...other than for LIFE.. may be entitled to earn a deduction from his sentence as follows." Robinson's Motion filed before Judge Jackson. [Tr-7-10] Robinson's Motion raised facts which grants relief based on the Statute, and was not refuted by the State at all. Therefore these under the Constitution must be true, and futher where there's nothing in Judge Jackson's order the Statute's language must be applied as written. 14-9-41(a) says upon any conviction, any offense, other than for life. In RADNEY V. STATE, 840 SO.2d 190, 196 (Ala. Crim. App. 2002) The Court said; "Section 13A-11-200 is not ambiguous; its language is plain, and we are required to interpret it to mean exactly what it says." 14-9-41(a) is not ambiguous; its language is plain. The Court then is under obligation to interpret it mean exactly what it says. Judge Jackson made no interpretation.

The State remained silent to the Constitutional issues which grants Robinson relief as a matter of law. There's nothing that can be said that 14-9-41(a), wasn't written, so what's the purpose of Alabama's Legislative Members printing written language if it's not to be used, and never applied. ? But where Alabama Legislative Members knew that Former Good Time laws existed, the Statute's written language tracks Former Statutes which granted IGT Good Time for all convictions other than for Life. 14-9-41(a) must be applied based on **EX PARTE COBB, 703 SO.2d 871 (Ala. 1996)** If the language is not ambiguous, then there is no room for judicial construction. There is absolutely nothing spoken in 14-9-41(a) which can't be understood. CIT Good Time then must be applied to Robinson's sentence of 25 years. The Court's says that 13A-5-9.1 don't apply where Robinson don't have LIFE. Then it's common sense, that Alabama Legislative Body must have thought; **Our words spoken in 14-9-41(a) gives Class C inmates CIT Good Time.** Then if this was not the case what possibly could be going on in the State of Alabama. You mean to say that a more serious crime can be given

actual resentencing, allowed to go free, and Alabama Legislative Members did nothing for property crimes under 13A-5-9. By no *MEANS* has 13A-5-9.1 denied Robinson's a proper Statute for resentencing under Robinson's nonviolent convictions. Futher 14-9-41(a) the very language grants Robinson's constitutional rights under the 1st Amendment to have clear precise plain language to applied as writtem. Robinson futher says that there is a 4th Amendment created Liberty Interest which has been established under plain language spoken by Statute 14-9-41(a). Where the words, **Each Prisoner who [S]hall, convcited of any offense, upon any convcition ..other than for [L]ife.** These words placed in 14-9-41(a) created Robinson entitlement to receive CIT Good Time as a matter of law. EX PARTE COBB, The language is not ambiguous, therefore it must be applied as written, and most definitely for Robinson's created right by Alabama Legislative Intent.

Robinson says there a key that has to be reviewed. 13A-5-9.1 and 14-9-41(e) Which serves the best interest of Alabama Citizens, and Robinson. Robinson points to HILSABECK V. STATE, 477 SO.2d 465,471,472((Ala. 1985) The Court stated : That in

analyzing equal protection challenges to the Alabama Correctional Incentive Time Act "We utilize the rational basis test prescribed by the United States Supreme Court. Under this test, we must determine (1) whether the classification futhers a proper governmental purpose and (2) whether the classification is rationally related to that purpose." The issue today unlike HILSABECK, 14-9-41(e) was amended in October of 1991. The amending of 14-9-41(e) granted CIT Good Time to Habitual Offenders. The purpose of ACT 80-446 said that **No Habitual Offender would receive CIT Good Time.** The original purpose of the ACT was defeated in October 1991. Going back to Robinson's case under CR-04-0188 It was held that Robinson's 3rd degree burglary was enhanced to a Class A, where Robinson had 3 priors. This being the case State of Alabama has released thousand upon thousand of Class "A" inmates with 15 years and less. Alabama Constitution 1901 Article IV. Section 61; provides that ^{no} bill shall be so altered as to change its original purpose. The original purpose was changed in October of 1991, where HFOA Inmates received CIT Good Time. The Ruling under HILSABECK,

definitely would render 14-9-41(a) the Legislative Intent, where 14-9-41(a) passes all Constitutional aspects.

Robinson and others are clearly entitled to have CIT Good Time as written by 14-9-41(a) where there's actual conflict between 14-9-41(a) and 14-9-41(e). 41(e) grants CIT Good Time to HFOA inmates, and it discriminates against Robinson and others by the actual sentence number alone. HILSABECK when you analyzine the equal protection clause you must consider the basis. There's nothing to up-hold granting one set of HFOA CIT Good Time and discriminate against others based on the actual sentence number alone. BROOKS V. STATE, 622 SO. 2d 447 (Ala. Cr. App.1993) The BROOKS, Court held "The 1991 amendment grants good time benefits to sex offenders with longer sentences, corresponding to presumably more serious crimes, yet denies retroactive benefits to sex offenders with shorter sentences for presumbaly less henious crimes. The only distinction appears to be the timing of conviction and sentencing." The only difference in Robinson's denial of CIT Good Time is the amount of time only, where any inmate with 3 priors and has a Class C, He/She

is an Habitual Offender and earns CIT Good Time, with a sentence of 15 Years. Robinson receives no CIT Good Time and he has the same crime as some with 15 years and 3 priors. BRROKS, holding applies to Robinson, where the discrimination violates Robinson's Constitutional rights. The only difference being the number of the sentence alone. Equal protection violation exist, and therefore 14-9-41(e) is void for violating all Constitutional rights which Robinson listed. Futher there's nothing which serves the best interest of Alabama Citizens, where Tax Payers pay for inmates like Robinson who have EOS based on CIT Good Time and the actual amount of time which Robinson has served on said sentence.

Alabama Criminal Court of Appeals has full authority to render written facts in Robinson's claims which comes under Alabama Statutes of laws which provide relief for inmates who were sentenced under 13A-5-9. The appeal rest for this Courts ruling, and proper consideration.

ISSUE III. WHETHER 13A-5-9.1 BY STATUTORY LANGUAGE EFFECTS
A CLASS UNDER ALABAMA STATUTE HFOA ACT 13A-5-9 FOR ALL

The issues which comes before this Honorable Court must be viewed under Statutory Authority For An Entire Class. The amending and application of 13A-5-9.1; Was this for all who were sentenced pursuant to 13A-5-9 ? Second did 13A-5-9 apply to all with prior convictions ? "YES"; all in all the Statute 13A-5-9.1 must apply and be granted for all or none. That's the Constitution of Alabama, and these United States. Once you apply unevenly; You single out and exclude some, but grant others; you created a clear constitutional violation.

Code Of Alabama 1975 Section 13A-5-9 by words, language used makes it a direct [M]ust, it has to be done, it [M]ust be for all unitedly. 13A-5-9; was for all who had prior convictions and stated by Statute's language how it applied to all. Once this took place nothing; absolutely nothing could be used to grant favoritism, class distinction, and class discrimination. See OPINION OF JUSTICES NO. 317, 474 SO.2d 700,704 (Ala. 1985) Applying the [D]octrine of "Ejusdem [G]eneris" 13A-5-9.1, Must

apply to all. See GHOLSTON V. STATE, 620 SO.2d 719 (Ala. 1993) At 724 the Court held; "And the Habitual Felony Offender Act, Section 13A-5-9, [R]equires that every sentence for a [F]elony conviction be enhanced when the defendant has a previous felony conviction." Nothing by way of 13A-5-9 separate and granted Class [S]eparation. It [M]ust be done equally. See JONES V. WHITE, 992 F.2d 1548(11th Cir. 1993) at 1561 it was said; (quoting Tom Sorrells former District Attorney of Houston County, Alabama) "He explained that [T]he nondiscretionary feature of the act is very important; that you can't do it to one person and not do it to the other person;" Therefore 13A-5-9.1 can't be granted uneven, and granting one specific class; and deny others who were all affected by it's passage in Alabama law. Where the very ACT must be considered as a whole when the amending of the Statute took place. Each and every inmate sentence under the HFOA ACT has entitlement by the language, and what the very ACT itself stood for to be resentenced. If not then the entire ACT itself [M]ust be void. See OPINION OF THE JUSTICES, 410 SO.2d 60,61 "Generally, any law with respect to the punishment to be given [M]ust operate [E]qually on every citizen...of

the [S]tate, and a [S]tatute is [V]oid as a denial of [E]qual [P]rotection of the [L]aws which describes a [D]ifferent [P]unishment or [D]ifferent degrees of [P]unishment for the [S]ame acts.." This has taken place with 13A-5-9.1 where class separation, and singling out certain classes of inmates, but all inmates were under the same ACT, and received the same punishment a fully enhanced sentence. The results accomplished under 13A-5-9.1 was to grant resentencing of nonviolent offenders. There's actual discrimination, and class separation where Class C felony nonviolent inmates are segregated and placed in a class not receiving the application of 13A-5-9.1, where we all came under 13A-5-9. The Constitutional violations which have taken place violates Robinson's and all others absolute right to file back to the Court for resentencing under the entire Class of HFOA sentences which were handed down by a Statute which speaks, [M]ust, and don't exclude any. The issues must be resolved as a matter of law.

IV. WHETHER 14-9-41(a) BY STATUTORY LANGUAGE EFFECTS
A CLASS OF ALABAMA PRISONERS WHERE MANDATORY LANGUAGE WAS
USED TO PROVIDE A SPECIFIC PURPOSE

The facts are true; once Alabama Legislators placed Code Of Alabama 1975 Section 14-9-41(a); there was a specific purpose. Under the Constitution of these United States; The 4th Amendment provides a created liberty interest. 14-9-41(a) says: "Each [P]risoner who [S]hall [H]ereafter be [C]onvicted of [A]ny [O]ffense against the [L]aws of the [S]tate of Alabama and is [C]onfined, in execution of the judgment or [S]entence [U]pon [A]ny [C]onviction.....[O]ther than for [L]ife...may be [E]ntitled to [E]arn a [D]eduction from the term of his [S]entence as [F]ollows:" These words created by Alabama Legislators made it clear as to what each prisoner hereafter being convicted for violations of Alabama Laws could receive other than for Life. A deduction from his sentence as follows. It was defined and explained that a Class of Prisoners could receive a deduction from his sentence upon any conviction other than for life. It is well understood, and plain.

Robinson's conviction is for 25 years for 3rd degree Burglary. Under the very language spoken by Alabama Legislature

Robinson must be granted consideration of CIT Good Time, where the words spoken grants Robinson a liberty interest under the 4th Amendment. Words spoken in a Statute must be given their ordinary, plain, well understood meaning. Reading 14-9-41(a) using each and every word with Shall, it is pure and simple. Each Prisoner who [S]hall [H]ereafter be [C]onvicted of ANY OFFENSE. This means exactly what it says, and has no room to be interpreted to mean anything lessor than what's said. Alabama law says once a Statute has plain language it must be applied. EX PARTE COBB, 703 SO.2d 871 (Ala. 1996) RADNEY V. STATE, 840 SO.2d 190,196 (Ala. Crim. App. 2002) 14-9-41(a) is not ambiguous; its language is plain, and we are required to interpret it to mean exactly what it says. Each Prisoner applies to a specific class, convicted inmates, who are prisoners of the State of Alabama, and who are confined upon execution of a sentence in Alabama Prison. It can't get any plainer than this.

Robinson says that failure to follow Legislatures plain language has caused Millions upon Millions of Dollars to Alabama Citizens. It has caused serious violations of Alabama Constitution, and the Constitution of these United States.

The words spoken under 14-9-41(a) grants Robinson a fundamental expected right. There's nothing which says that Robinson could not earn CIT Good Time. Alabama history Robinson shows must go forth when examining actual legislative intent. Former Good Time laws of the State of Alabama for prisoners, convicts. In 1975, the Alabama Legislature passed ACT 214, Formerly Code 1975 Section 14-9-1 through 14-9-4. Then in 1976 ACT 182 was passed, Code Of Alabama 1975 Section 14-9-20 through 14-9-25, where Alabama Priosners earned both SGT and IGT. The words and language then applied to Each Prisoner. The Statute's plain language and all words spoken in 14-9-41(a) specifically tells each prisoner what to expect. There's nothing when reading 14-9-41(a) would give any slight hint that a 25 year sentence would not receive CIT Good Time after following the rulese of the Deaprtment of Corrections. Therefore the very words spoken; Prisoner represents a class. A class of Alabama inmates serving a sentence other than for life could earn and receive a deduction from his sentence. EX PARTE COBB, 703 SO.2d 871 (Ala. 1986) The plain words spoken must be applied. Also ADOC,

says the same, and admits to the plain language. This took place in POWERS V. STATE, 546 SO.2d 1000 (Ala. Cr. App. 1987) At 1003 it was said; "To give a qualified prisoner a maximum deduction from his sentence.." All Statutory construction, Statutes plain language, says that Each Prisoner [S]hall, all words spoken creates a right for Robinson to receive CIT Good Time. With the 1st, 4th, 6th, and 14th Amendments there's only one purpose, and it is very plain. Prisoners shall. The word shall is mandatory, and it was given for a class and this calss are prisoners serving time upon any conviction other than life to receive CIT Good Time. like stated earlier, failure to follow Alabama's clear langauge caused Alabama Prisons to be over crowded, Alabama County Jails, and increase of crime in the State of Alabama. Where's there's no bed space, and theirs little to none of actual corrections, inmates don't have any incentive, where the plain words spoken have not been applied. Alabama Legislative intent for plain words under Statutory construction must be applied as all laws quotoed clearly showed. Robinson leaves these issues for experts, professional Judges of Alabama Criminal Court to decide.

Conclusion

Robinson, after careful review of the Constitutional issues which come by actual Statutes Of Alabama Code Sections. Robinson's issues still remain unrefuted, and there are no written orders by the Honorable Judge Sidney Edward Jackson. The issues now appear before the Honorable Judges of Alabama Criminal Court Of Appeals, to address and issue a ruling. Where the Constitution of these United States, and Alabama Constitution 1901 stand to prove; that Robinson and others similiar have a claim to which relief can be granted. In that the very words, exact language which states a specific meaning, this language must be adopted. It has come to a matter of significant importance for Alabama Tax Payers, and Alabama Inmates who make up a Class with a protected right established by actual words spoken in these Statutes that apply to Alabama Citizens, and all Prisoners convicted.

Robinson Prays that after this Court take fair consideration of all facts and arguments from both parties that a written order will issue, to grant Robinson the rekief which Judge Jackson did not address in his orders.

Respectfully


A handwritten signature in black ink, appearing to read 'James Robinson', written over a horizontal line.

JAMES ROBINSON

Certificate Of Service

I James Robinson do hereby certify and say that Robinson has provided the Clerk of this Court with a copy of the Brief Clearly Labeled : **ATTORNEY GENERAL**.

The Court's orders being complied with by James Robinson, Done this 23rd Day of December, 2005. By my signature below, service is placed upon the Honorable Clerk Of The Court Of Criminal Appeals.


JAMES ROBINSON
565 BIBB LANE
BRENT, AL. 35034

ATTORNEY GENERAL COPY Kirby 87476
JMAX

NO. CR-05-0233

FILED

JAN 20 2006

CLERK
ALA COURT CRIMINAL APPEALS

IN THE COURT OF CRIMINAL APPEALS OF ALABAMA

JAMES LENWOOD ROBINSON

APPELLANT,

VS.

STATE OF ALABAMA

APPELLEE.

ON APPEAL FROM THE CIRCUIT COURT OF HOUSTON COUNTY

(CC-93-1628)

REPLY BRIEF AND ARGUMENT

BRIEF OF APPELLANT

JAMES L. ROBINSON PRO SE

JAMES L. ROBINSON

JANUARY 20, 2006

TABLE OF CONTENTS

TABLE OF CONTENTS.....	i.
TABLE OF CASES.....	ii.
STATEMENT OF CASE AND FACTS.....	1.-3.
ISSUES PRESENTED FOR REVIEW.....	4.
ARGUMENT I.	5.
CONCLUSION	6.-7.
CERTIFICATE OF SERVICE.....	8.

TABLE OF CASES

GRADY V. STATE, 831 SO.2d 646	
(ALA. CRIM. APP. 2001).....	5.

Statement Of Case And Facts

James Robinson filed a timely Motion For Sentence Reconsideration based on the Statute of Law which governs nonviolent offenders. Code Of Alabama 1975 Section 13A-5-9.1. The proper Court of jurisdiction being Circuit Court of Houston County, Alabama, [Tr.-1.] The Circuit Clerk placed the motion on file in the proper Court, and under the correct sentencing Judge, Judge Sindeny E. Jackson. The judge entered his order dated 09/20/05 denying Robinson's Motion. [Tr.-1.]. Judge Jackson made his orders, saying : "Habitual Offender applies only to those with Life and Life Without Parole." Robinson filed back before the Court with proper Motions for Judge Jackson to make a timely ruling under the Constitutional issues to which Robinson cites by actual means of the Statute, and the meaning of the Statute's application under nonviolent. Judge Jackso entered no written facts and nothing was placed in the records by State of Alabama providing any specific facts under two Statutes of laws to which Robinson shows, and makes clear issues which provides relief for nonviolent offenders.

The State of Alabama by way of its brief has made total issues which they know are not timely, nor do they address the Constitutional claims which were brought before the Circuit Court. The State ask this Court to rule against Robinson saying that Robinson filed in the wrong Circuit Court. This is false and

contrary to the transcript of records before this Court. In fact the State's very brief would not refer the Court to the transcript to make a full showing that Robinson's Motion was filed in the wrong Circuit Court. The transcript of records supports Robinson's issues which have never been refuted by the State at any level. The State has not answered, and the reason being Constitutional issues exist which grants all nonviolent offenders a means to file in Court and seek relief where 13A-5-9 was prior to 2000, a mandatory sentence that [M]ust be complied with. Robinson's Motion was filed under case numbers CC98-1628. Judge Jackson sentenced Robinson to a term of 25 years in this case, and the transcript proves the right Circuit Court, and the ruling which was entered by Judge Jackson.

The State uses the facts where Robinson showed to Judge Jackson listed facts independent. [Tr-3]. Robinson listed that in case number CC88-26, from Henry Circuit Court Robinson had a total of 19 years served in that case.. The facts are that Robinson filed the correct Motion in the correct Court, and the Judge who sentenced Robinson in case number CC98-1628 did issue his ruling. The State by way of the brief filed has made Issue I. totally contrary to what comes under Constitutional issues which deserves a full ruling, and there being facts to which relief exist based on the very meaning of the Statute's clearly stated plain language.

Robinson transcript of records before this Court is true and correct certified by the Clerk. The State has waived all issues, and have failed to refute specific facts which comes under Alabama Constitution, and the Constitution of these United States. The meaning of nonviolent offenders coming back before the Court for resentencing, where all who were sentenced by a Statute which carries mandatory language. Robinson's issues which came before Judge Jackson no orders, nor any written facts show that 13A-5-9 made it mandatory for Robinson to have had his sentence enhanced. Where the issues comes that all nonviolent offenders can apply, the issues by Judge Jackson not being address are deemed to be true, where the State has not made any denial under the actual Statute of law to which can bring any offender back, and this being 13A-5-9. The facts remain that without 13A-5-9, there would be no need of amending to 13A-5-9.1. All who were sentenced under 13A-5-9 have a Constitutional right to address the Court for injury which was done to him. Even under the Kirby Court, it says there is unclarity. Robinson's Motions, [Pr.-5-10]. None of these Motions have any specific facts for a Judge to make specific findings of facts to. Without there being any facts, and the State failure to refute the Constitutional issues which grants relief for nonviolent offenders Robinson then is most definitely entitled to his Constitutional rights being protected. Futher Robinson showed that Alabama Legislatures most definitely would have made it available for CIT Good Time under 14-9-41(a) for all nonviolent, where Life, can go home.

ISSUE PRESENTED FOR REVIEW

I. UNREFUTED FACTS MUST BE TAKEN AS TRUE.
AS TRUE WHERE THE STATE HAS NOT RESPONDED.

ISSUE I. UNREFUTED FACTS MUST BE TAKEN
AS TRUE WHERE THE STATE HAS NOT RESPOND.

The records before this Court contains facts showing that the State's brief before this Court has not address the issues which come by means of Robinson's brief and the specific issues, which went before the correct Court of proper jurisdiction. The State can't even show facts that CC98-1628 is from Henry Circuit Court. In fact the transcript proves that case number CC98-1628 was filed in Circuit Court of Houston County, Alabama and went before the correct Judge, Honorable Jackson. The issues which appear under the correct Motions, and to which Robinson asked of specific facts to issue. Judge Jackson did not make any written facts, nor did the State answer any of these issues. [Tr-5-10]. The records by means of the transcript provides that the State had full opportunity to address these issues, and in Robinson's brief the State did not even make any attempt to refute any of these issues. Alabama law says, GRADY V. STATE, 831 SO.2d 646 (ALA. CRIM. APP. 2001) THE COURT HAS HELD THAT UNREFUTE FACTS MUST BE TAKEN AS TRUE.

THREFORE, all of the issues which Robinson has presented have not been refuted, and they most certainly are true, by the Constitution of these United States, and the State of Alabama. Robinson awaits the facts from this Court.

Conclusion

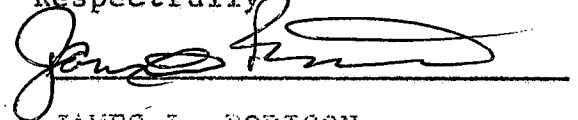
Robinson has come before this Court with specific issues which have not been denied at all. Robinson knows that relief exist, and it may not come this time around, but take full honor and praise that God above will see fit to touch the Judges heart, and one day the issues which comes by means of public out-cry, and tax payers who are dealing with prison over crowded issues will see that Tax Payers are in fact paying to house inmates who have completed their sentences, and are still being housed by Statutes of Alabama laws which have been amended, and today, these same type of crimes to which inmates were victim of in the 80's they are still being held. Where today inmates come in with 15 Split, Twenty Split, and for the same crimes which in 1980's and upward these inmates received Life for nonviolent Robbery, Life For nonviolent burglaries, and etc. Today these same set of inmates get 15 and 20 Split sentences and return back into society. These are issues which Tax Payers, and all are faced with. The other side of this coin. Seeds are being sown in ADOC where over crowded Prisons allow Corrections Officers now to use their jobs for evil motives, and majority with no concern for Corrections. Tax Payers reap Capitol Murder from Youths who return back just experiencing another High Tech Video Game, and no form of Corrections. these are issues which correcting Constitutional violations will provide relief for all.

Robinson knows the Judges serving today will make a fair review of the issues which have now come before this Court for full and factual review. At no time has Robinson made any attempt to undermine this Court. It serves all citizens, and each and every person living in Alabama where Constitution serves for protection of all.

In closing Robinson will one day walk out and never have to be faced with Alabama Prison, but will be able to serve the community where Youths of today need the real truths, and the assistance to stay free of criminal acts to which they see from one aspects, and this being from luxury of Drug Dealers, and Gang Members making them feel comfortable, where there are serious problems in homes, and nothing in School which gives the answers to which they are in need of that's Alabama Constitution, and the Constitution of these United States, where it is available to all, and learning to correct mistakes, and learning to use what God has provided. These laws are found in all Alabama law, and Federal Laws of the Land under the Ten Commandments which makes the basis for all.

I rest with these facts.

Respectfully

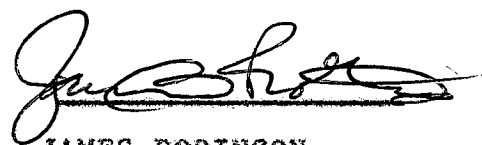
A handwritten signature in black ink, appearing to read 'James L. Robinson', written over a horizontal line.

JAMES L. ROBISON

JANUARY 20, 2006

CERTIFICATE OF SERVICE

I do hereby certify and say that I have served the Attorney General with a copy of the same by means of Criminal Court of Appeals clerk service. According to Pro se Inmates service. Done this 20th Day of January 2006.



JAMES ROBINSON

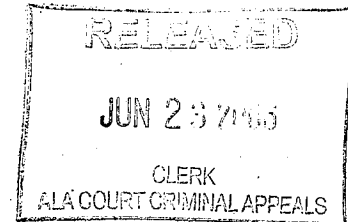
Kirby

87476

Notice: This unpublished memorandum should not be cited as precedent. See Rule 54, Ala.R.App.P. Rule 54(d), states, in part, that this memorandum "shall have no precedential value and shall not be cited in arguments or briefs and shall not be used by any court within this state, except for the purpose of establishing the application of the doctrine of law of the case, res judicata, collateral estoppel, double jeopardy, or procedural bar."

Court of Criminal Appeals

State of Alabama
Judicial Building, 300 Dexter Avenue
P. O. Box 301555
Montgomery, AL 36130-1555



H.W."BUCKY" McMILLAN
Presiding Judge
SUE BELL COBB
PAMELA W. BASCHAB
GREG SHAW
A. KELLI WISE
Judges

Lane W. Mann
Clerk
Gerri Robinson
Assistant Clerk
(334) 242-4590
Fax (334) 242-4689

MEMORANDUM

CR-05-0233

Houston Circuit Court CC-98-1628

James Lenwood Robinson v. State

McMILLAN, Presiding Judge.

The appellant, James Lenwood Robinson, appeals from the summary denial of his motion to reconsider his sentence filed pursuant to § 13A-5-9.1, Ala. Code 1975. The trial court stated that the relief that Robinson sought applied only to life and life without parole sentences.

Unified Judicial System records indicate that on May 4,

1999, Robinson pleaded guilty in Houston Circuit Court to charges of breaking and entering (CC-98-1628) for which he was sentenced to 25 years' imprisonment, under the Habitual Felony Offender Act. On that same date he also pleaded guilty to a charge of possession of a forged instrument (CC 98-1222); another charge of breaking and entering (CC 98-1486); and 2 counts of forgery in the second degree (CC 98-1626 and 98-1627). Robinson was sentenced to 25 years in these cases, with the sentences to run concurrent with the 25-year sentence in CC 98-1628.¹ None of these convictions were appealed to this Court.

The State argues that Robinson's motion was not presented in the County where he was sentenced and should have been transferred from Houston Circuit Court to Henry Circuit Court. However, the case in which he filed his motion to reconsider the sentence (CC 98-1628) was, in fact, from a conviction in Houston County. It is difficult to tell from the record on appeal or the appellant's brief, where or when he was convicted or sentenced to which charges. This information should have been provided in the motion filed in Houston

¹He also has a prior guilty-plea conviction in Henry Circuit Court for a charge of burglary in the third degree in 1988.

Circuit Court, but was not.

As this Court recently held in Holt v. State, [Ms. CR-04-1250, Dec. 23, 2005] _____ So. 2d _____ (Ala. Crim. App. 2005),

"There are three requirements for eligibility to have a habitual offender sentence reconsidered under § 13A-5-9.1: 1) the inmate was sentenced before May 25, 2000, the date the 2000 amendment to the HFOA became effective; 2) **the inmate was sentenced to life imprisonment without the possibility of parole pursuant to § 13A-5-9(c)(3) and had no prior Class A felony convictions or was sentenced to life imprisonment pursuant to § 13A-5-9(c)(2), ... and** 3) the inmate is a 'nonviolent convicted offender.' An inmate must satisfy all three requirements before he or she is eligible for reconsideration of sentence under § 13A-5-9.1. If a circuit court determines that an inmate is eligible for reconsideration of his or her sentence, the court then has the authority pursuant to § 13A-5-9.1 to resentence the inmate, within the bounds of § 13A-5-9(c)(2) or § 13A-5-9(c)(3), as amended, if it so chooses. **If, on the other hand, the circuit court determines that the inmate fails to meet any or all of the eligibility requirements, then the circuit court must deny the inmate's § 13A-5-9.1 motion because a circuit court has jurisdiction to resentence only those inmates who meet the eligibility requirements of § 13A-5-9.1."**

(emphasis added)

In this case, the circuit judge had jurisdiction to consider Robinson's motion because the motion was filed in the court of conviction and the judge who ruled on the motion was the sentencing judge. This appears to be Robinson's first

motion for reconsideration under § 13A-5-9.1. Robinson was sentenced before the 2000 amendment to the HFOA became effective. However, he was not sentenced to life imprisonment or life without parole, therefore, the trial court was correct in denying his motion for reconsideration.

Based on the foregoing, the judgement of the trial court is due to be affirmed.

AFFIRMED.

Cobb, Shaw, and Wise, JJ., concur. Baschab, J., concurs in the result.

Kirby

**THE STATE OF ALABAMA - - JUDICIAL DEPARTMENT
THE ALABAMA COURT OF CRIMINAL APPEALS**

CR-05-0233

James Lenwood Robinson v. State of Alabama (Appeal from Houston Circuit Court: CC98-1628)

CERTIFICATE OF JUDGMENT

WHEREAS, the appeal in the above referenced cause has been duly submitted and considered by the Court of Criminal Appeals; and

WHEREAS, the judgment indicated below was entered in this cause on June 23rd 2006:

Affirmed by Memorandum.

NOW, THEREFORE, pursuant to Rule 41 of the Alabama Rules of Appellate Procedure, it is hereby certified that the aforesaid judgment is final.

Witness. Lane W. Mann, Clerk
Court of Criminal Appeals, on this
the 11th day of July, 2006.



**Clerk
Court of Criminal Appeals
State of Alabama**

cc: Hon. Sidney Edward Jackson, Circuit Judge
Hon. Judy Byrd, Circuit Clerk
James Lenwood Robinson, Pro Se
Nancy M. Kirby, Dep. Atty. Gen.
Kim T. Thomas, Asst. Gen. Counsel

Notice: This unpublished memorandum should not be cited as precedent. See Rule 54, Ala.R.App.P. Rule 54(d), states, in part, that this memorandum "shall have no precedential value and shall not be cited in arguments or briefs and shall not be used by any court within this state, except for the purpose of establishing the application of the doctrine of law of the case, res judicata, collateral estoppel, double jeopardy, or procedural bar."

Court of Criminal Appeals

State of Alabama
Judicial Building, 300 Dexter Avenue
P. O. Box 301555
Montgomery, AL 36130-1555

RELEASED

JUN 10 2005

CLERK
ALA COURT CRIMINAL APPEALS

H.W."BUCKY" McMILLAN
Presiding Judge
SUE BELL COBB
PAMELA W. BASCHAB
GREG SHAW
A. KELLI WISE
Judges

Lane W. Mann
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MEMORANDUM

CR-04-1138 Houston Circuit Court CC-98-1628.60

James Lenwood Robinson v. State of Alabama

SHAW, Judge.

James Lenwood Robinson appeals the circuit court's summary denial of his petition for a writ of habeas corpus. In his petition, which is confusing and disjointed, Robinson appears to contend that the good-time law is discriminatorily applied. He discusses the legislative intent of § 14-9-41, Ala. Code 1975, and suggests that §§ 13A-5-9 and 15-18-8, Ala. Code 1975, are being unevenly applied. However, his petition is silent as to the nature of his conviction and length of his sentence, and does not indicate how he believes that his period of incarceration should be different based on the "allegations" in his petition. The circuit court summarily denied the petition without requiring a response from the State.

Notice: This unpublished memorandum should not be cited as precedent. See Rule 54, Ala.R.App.P. Rule 54(d), states, in part, that this memorandum "shall have no precedential value and shall not be cited in arguments or briefs and shall not be used by any court within this state, except for the purpose of establishing the application of the doctrine of law of the case, res judicata, collateral estoppel, double jeopardy, or procedural bar."

Court of Criminal Appeals

State of Alabama
Judicial Building, 300 Dexter Avenue
P. O. Box 301555
Montgomery, AL 36130-1555

RELEASED

JUN 10 2005

CLERK
ALA COURT CRIMINAL APPEALS

H.W."BUCKY" McMILLAN
Presiding Judge
SUE BELL COBB
PAMELA W. BASCHAB
GREG SHAW
A. KELLI WISE
Judges

Lane W. Mann
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MEMORANDUM

CR-04-1138 Houston Circuit Court CC-98-1628-60

James Lenwood Robinson v. State of Alabama

SHAW, Judge.

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Robinson argues on appeal that the circuit court erred in summarily denying his petition without requiring a response from the State and that his unrefuted allegations must be taken as true. However, because none of the "allegations" in Robinson's petition were sufficiently pleaded, we find that no reversible error exists. "When a petition for a writ of habeas corpus shows on its face that if all the statements of fact contained in the petition were true, the petitioner would not be entitled to a writ of habeas corpus, it is not error to deny the petition." Smith v. State, 440 So. 2d 1222, 1223 (Ala. Crim. App. 1983). Even taking Robinson's allegations as unrefuted, they are insufficiently pleaded to show that he is entitled to habeas relief. Therefore, summary denial was appropriate.

Based on the foregoing, the judgment of the circuit court is affirmed.

Affirmed by memorandum.

McMillan, P.J., and Cobb, Baschab and Wise, JJ., concur.

**THE STATE OF ALABAMA - - JUDICIAL DEPARTMENT
THE ALABAMA COURT OF CRIMINAL APPEALS**

CR-04-1138

James Lenwood Robinson v. State of Alabama (Appeal from Houston Circuit Court:
CC98-1628.60)

CERTIFICATE OF JUDGMENT

WHEREAS, the appeal in the above referenced cause has been duly submitted and considered by the Court of Criminal Appeals; and

WHEREAS, the judgment indicated below was entered in this cause on June 10th 2005:

Affirmed by Memorandum.

NOW, THEREFORE, pursuant to Rule 41 of the Alabama Rules of Appellate Procedure, it is hereby certified that the aforesaid judgment is final.

Witness. Lane W. Mann, Clerk
Court of Criminal Appeals, on this
the 20th day of July, 2005.



**Clerk
Court of Criminal Appeals
State of Alabama**

cc: Hon. Sidney Edward Jackson, Circuit Judge
Hon. Judy Byrd, Circuit Clerk
James Lenwood Robinson, Pro Se
Kim T. Thomas, Asst. Gen. Counsel
Greg Biggs, Attorney
Office of Attorney General

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

JAMES ROBINSON
PETITIONER

VS.

CASE NO.'S CC98-1222, 1628

STATE OF ALABAMA
RESPONDENTS

HABEAS CORPUS-RULE 32 RELIEF

Comes now James Robinson and pursuant to provisions of Rule 32 and files this Petition before the Honorable Judge Sidney Edward Jackson. Robinson has issues which grants relief before this Court, and are contained by actual Court's records. The following now comes for a full answer :

I.

PROCEDURAL HISTORY

James Robinson was indicted for the following charges, by the Grand Jury: Possession of Forged Instrument, Forgery Second, and Breaking Entering Automobile. Robinson was represented by the Honorable Jack A. Blumenfeld. Robinson gave Attorney Blumenfeld sufficient facts for his defense and witnesses to contact for a full not guilty verdict, and rights to exercise for trial by jury in these cases. Robinson also who had prior to any arrest assisted the Dothan Police, and Federal Drug Task Force, did make full arrangements with arresting officer

these cases to resolve all cases with a plea of guilty, all facts made known by and through Counsel and District Attorney Gary Maxwell. The sentence agreement being for a plea of guilty, that Robinson would receive 25 years, 15 years of the 25 year sentence to be suspended, with only 10 years to serve, with no probation. Robinson agreed, and appeared before Honorable Judge Jackson and was sentenced to 25 Years, 15 Years suspended to run concurrent with CC88-125. See Exhibit "A". Robinson's case action summary which serves as proof. Judge Jackson's very orders with 15 Years suspended.

Robinson's time was ordered concurrent, and at the time Robinson had a total of 70 Years by ADOC time sheet. See Exhibit "B". Robinson's release date did not change by operation of law where the full 70 Years by concurrent terms did not exceed the actual amount of time to be served.

Robinson filed a Motion For Nunc Pro Tunc which was granted and all time was ordered to run concurrent with CC88-125, leaving Robinson with only a term of 25 Years to be served. See Exhibit "C". Robinson at this time petition the trial Court to correct the time, and sentence orders, where the 15 Years were suspended. The Clerk of Court said there was no mistake which was made. However the case action summary supports Robinson's claim. EXhibit "A".

Robinson did not have any knowledge prior to July, 2006 that the guilty plea agreement had not been honored. There was know way that Robinson would enter a plea of guilty to all the cases which were placed against Robinson for 25 Years based on true facts that Robinson did not commit these alleged crimes. Counsel, Arresting Officer, District Attorney Honorable Gary Maxwell, and Honorable Judge Sidney Edward Jackson, did provide a sentence with 25 Years, 15 of the 25 to be suspended, all taking place May 4th, 1999.

II.

NEWLY DISCOVERED EVIDENCE

1. The evidence was not known to Robinson in 1998 that the 25 Years sentence had been placed in Robinson's time by ADOC, where at all times the original EOS date that Robinson had did not change based on concurrent sentence.
2. Robinson did not learn until July 2006 by ADOC Time Sheet that Robinson had a full 25 Years to serve which began in May 4th, 1999; date sentence was imposed. See Exhibit "G". Where after the Nunc Pro Tunc Order awarding concurrent sentences Robinson learned that the plea agreement, and or the Clerk's records were totally incorrect.
3. Robinson's Attorney Mr. Jack A. Blumenfeld, a full letter was written to Attorney requesting his assistance in correcting the wrong by actual error. Attorney's letter upon return to

James Robinson. Facts are that at no time did Attorney make any Motions before the Court requesting Clerk's error to be corrected, and the Clerk of Circuit Court provided Robinson with a full list of all Motions which had been filed, and not one appeared as Attorney claimed he did.

4. Robinson by full facts after appearing back in Court for a case under Judge Jackson for possession of cocaine. Attorney Judith checked the records and did learn that Robinson had a 25 Year sentence with 15 Years of the 25 being suspended, and District Attorney Butch Binford agreeing to the same, and acknowledge that the District was Honorable Gary Maxwell. Robinson acknowledge in open Court that, Robinson had been fighting hard to correct all avenues in his life. In fact the very case to which Robinson was charged for was that of Robinson's Wife. Robinson entered a plea of guilty for 15 Years to run concurrent with CC98-1222.

Facts To Which Grant Relief

1. Robinson did not have any knowledge of the Court's sentence order not being applied at sentencing.
2. If Robinson had known that the 15 Years would not be suspended Robinson would not have entered a plea of guilty. These facts

were unknown to Robinson on May 4th, 1999, nor was they made known to Robinson in time to file any Post Conviction Motion within the one Year and then Two Year limitation period under Rule 32.

3. The facts now before this Court would have changed the whole outcome of the proceeding if they had been known by Robinson. Robinson would not have entered a plea of guilty, but would have went to trial. The Outcome would have been different altogether where Robinson's Attorney had full knowledge and also Arresting Officer that Robinson told Counsel we are ready for trial since you have did nothing at all, and facts are that Officer Meridith did speak with the District Attorney and Judge for Robinson and the sentence of 25 Years with 15 Years of the 25 would be suspended. Therefore the outcome would have been different. and the results would have been different in itself.

4. The dates of discovery, and all facts are proof before this Court by exhibits as provided by Robinson. July, 2006.

RELIEF REQUESTED

1. The Court set this matter for a full hearing on the Court's calendear.
2. The Court to make a full transcript of the Guilty Plea proceedings and supply Robinson with a copy.
3. The Sheriff of Houston County, Alabama to transport Robinson

back before this Court for a full hearing of the issues which grants relief as a matter of law.

4. The Court to appoint Counsel in this cause of action now pending before the Court.

5. The Court in the alternative to grant time served where based upon operation of law Robinson's time has expired by either CIT Good Time, and or the full serving of 10 Years with all Jail Credit time awarded day for day of 10 Years. Time served in all cases of 1998.

6. To any and all relief that Robinson is entitled by law.

III.

GUILTY PLEA AGREEMENT MUST BE PROPER AND BINDING

1. Alabama law provides that based on *BOYKINS V. ALABAMA*, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969) The Court held: "A guilty plea is only properly accepted...upon [S]atisfaction of the requisites, knowing that the guilty plea was knowingly and voluntarily entered by the accused."

2. The records [M]ust reflect sufficient facts from which such determination could properly be made. Robinson by his case action summary shows that it was fair for Robinson to believe that Judge Jackson did continue with the plea agreement, and would continue to insure enforcement of the same. See Exhibit "A". For what reason would 15 Years be stated if the

term of sentence was just 25 Years. Simple facts prove that Honorable Judge Sidney Edward Jackson did sentence to 25 Years but suspended 15 Years which appears in the case action summary for the reasons as shown by Robinson.

3. The records before this Court do not contain a Ireland Form which was used nor a Guilty Plea Form. Robinson's facts however are true and correct, and Robinson seeks only what was done at the time the guilty plea was done and made proper before the Honorable Court.

4. Alabama Rules Criminal Procedure, Rule 14.4 provides that all guilty pleas must be done voluntarily. Robinson's plea can only be voluntarily by complying with the plea agreement to which had been agreed upon by all parties.

FACTUAL STATEMENT FOR RECORDS


Robinson's appearance back in open Court before Honorable Butch Binford, and Gary Maxwell, Robinson was fully honest expressed that criminal way of living was not Robinson's way of life from the beginning, and now some 30 Years later Robinson has made a complete change, and walked in Court with nothing but the Love of Jesus Christ. It could have easily been a greeting by both District Attorneys with hostility, but at conclusion of Robinson's case it was fully made known by both, that they honor and hope Robinson's sincerity remains true.

The records speak for itself, Robinson's guilty plea was for 15 Years to be suspended in the 25 Year sentence. The Court has jurisdiction to grant Robinson relief altogether based on facts which will not change, and there are to many who appeared in Court on May 4th, 1999, and all having full knowledge of what took place. Attorney Jack A. Blumenfeld who knows but is afraid to reappear. However Robinson who do know Honorable Gary Maxwell, and Honorable Butch Binford have no reason to lie at anytime acts to which did take place, Robinson is of the firm opinion that both State Officials will agree to the same.

RELIEF REQUESTED

1. The Court to set this matter for a full hearing.
2. The Court to issue an order for the Sheriff of Houston County, Alabama to transport Robinson back before the Court for a full hearing of these issues.
3. The Court to enter an order for Court Reporter to make a transcript of the guilty plea proceedings in these cases.
4. The Honorable Judge to grant time served based on facts that Robinson has served the full term with all jail credit.
5. To any and all relief to which Robinson is entitled.

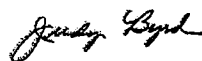
Respectfully


 JAMES ROBINSON
 POST OFFICE BOX 1107
 ELMORE, AL. 36025

Dated this 10 Day of OCTOBER, 2006

FILED

DEC 04 2006


 JUDY BYRD, CLERK
 HOUSTON CO., AL